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REVISIONS:
PULLED: ITEMS XII-21 & 24
ADDED: ITEM XII-30A.

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:30 a.m. February 23, 2010

First Floor Boardroom
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Approve the minutes of the regular meeting on February 9, 2010

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.

V. CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 3)

1. *PUD2008-00008 - Extension of time to complete the platting requirement for PUD-29, a City PUD (Planned Unit Development) for office development; generally located north of Harry and midway between Rock and Webb Roads. (District II)

   RECOMMENDED ACTION: Approve an extension of the platting deadline to July 7, 2011.

2. *ZON2009-00038 and CON2009-44 - City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") with a Conditional Use request for multiple duplexes on a single lot; generally located north of Central Avenue, west of Sheridan Avenue. (District VI)

   RECOMMENDED ACTION: 1) Concur with the findings of the MAPC, and approve the zone change; place the ordinance establishing the zone change 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.)

3. *ZON2009-00039 – City zone change from SF-5 Single-family Residential ("SF-5") to MF-18 Multi-family Residential ("MF-18"); generally located west of 159th Street East and 1/3 mile north of East Central Avenue. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change 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.)

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.

VII. CONSENT HOUSING AGENDA (ITEMS 1 THROUGH 5)

1. *2010 Utility Allowance - Section 8 Housing Choice Voucher Program.

RECOMMENDED ACTION: Approve and adopt the 2010 Utility Allowance and make it effective on April 1, 2010 for new clients and on the next recertification of current clients after May 1, 2010.

2. *2010 Payment Standards - Section 8 Housing Choice Voucher Program.

RECOMMENDED ACTION: Approve the Payment Standards for the Section 8 Housing Choice Voucher Program to be effective on April 1, 2010 for new clients and current clients who are relocating and as of May 1, 2010 for current clients as determined by their recertification dates.

3. *Section 8 Management Assessment Program (SEMAP) Certification.

RECOMMENDED ACTION: Approve submission of the 2009 Section 8 Management Assessment Program (SEMAP) certification.

4. *2009 Public Housing Assessment System.

RECOMMENDED ACTION: Review and approve the submission of the 2009 Public Housing Assessment System Certification for management indicators to the U.S. Department of Housing and Urban Development, adopt the resolution, and authorize the necessary signatures.

5. *Revisions of the Capital Fund Budgets for 2008, 2009 and American Recovery and Reinvestment Act of 2009.

   RECOMMENDED ACTION: Approve revisions of the 2008 Annual, 2009 Annual and the 2009 Stimulus-funded Capital Fund budgets.

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.

IX. CONSENT AIRPORT AGENDA (ITEMS 1 THROUGH 3)

1. *Supplemental Agreement No. 1 - Maintenance of Telecommunication System.

   RECOMMENDED ACTION: Approve the Supplemental Agreement and authorize the necessary signatures.

2. *Airport Airline Use and Lease Agreement - Supplemental Agreements.

   RECOMMENDED ACTION: Approve the Supplemental Agreements and authorize the necessary signatures.

3. *Supplemental Agreement No. 1 - Management/Operation of Public Automobile Parking Facility at Wichita Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the Supplemental Agreement and authorize the necessary signatures.

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

None

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 31A)

1. Report of Board of Bids and Contracts dated February 22, 2010.

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

2. Applications for Licenses:

Renewal	2010	
Robert Floyd	Kellogg Gifts Shop Inc.dba Patricia's	6143 West Kellogg

   RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

New	2010	(Consumption off Premises)
Trisha Van	T&T Fast Trips	1203 East Pawnee

Renewal	2010	(Consumption off Premises)
Stephen Diehl	Dillons Stores #12	9450 East Harry
Stephen Diehl	Dillons Stores #16	8828 West 13th Street
Stephen Diehl	Dillons Stores #31	1640 South Broadway
Stephen Diehl	Dillons Stores #33	4747 South Broadway
Stephen Diehl	Dillons Stores #34	3932 West 13th Street
Stephen Diehl	Dillons Stores #35	6297 East 13th Street
Stephen Diehl	Dillons Stores #49	10222 West 21st Street
Stephen Diehl	Dillons Stores #56	3707 North Woodlawn
Stephen Diehl	Dillons Stores #65	3211 South Seneca
Stephen Diehl	Dillons Stores #66	2244 North Rock Road
Stephen Diehl	Dillons Stores #72	10515 West Central
Stephen Diehl	Dillons Stores #89	1910 West 21 Street North
Stephen Diehl	Dillons Stores #91	3020 East Douglas Avenue
Stephen Diehl	Dillons Stores #92	640 North West Street
Stephen Diehl	Dillons Stores #249	2212 North Maize Road
Stephen Diehl	Dillons Stores #81	13415 West Maple
Huong Van Nguyen	Lucky Market	7100 East Harry
Mai Vo	T & T Discount Cigarette	3448 West Douglas Ave
Lori Cottrell	Wal-Mart Supercenter #4321	5475 North Meridian
Lori Cottrell	Wal-Mart Supercenter #1099	501 East Pawnee
Lori Cottrell	Wal-Mart Supercenter #3492	11411 East Kellogg

Renewal	2010	(Consumption on Premises)
John M. Wright	Braeburn Golf Course at WSU*	4201 East 21st
Haydee Raymando	Tacos Raymundo	1716 West 21 Street North

   * General/Restaurant 50% or more gross revenue from sale of food.

   RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

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

   RECOMMENDED ACTION: Receive and file.

5. Deeds and Easements:
   a. Deeds and Easements. (See Attached.)

   RECOMMENDED ACTION: Accept documents.

6. Consideration of Street Closures/Uses.
   a. Community Events – 2010 Orpheum Street Car Show. (District VI)
   b. Community Events – Wichita Half Marathon. (District IV)
   c. Community Events – Intrust Bank Arena Bon Jovi Concert. (District I)
   d. Community Events – Intrust Bank Arena Billy Joel/Elton John Concert. (District I)
   e. Community Events – Intrust Bank Arena Jeff Dunham. (District I)
   f. Community Events – Intrust Bank Arena WWE Smackdown. (District I)

   RECOMMENDED ACTION: Approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

7. Property Acquisitions:
   a. Partial Acquisition of Vacant land at 11601 East Harry for the Harry: Greenwich to 127th Street East Road Improvement Project. (District II)
   b. Partial Acquisition of land along the Northeast Corner of 117th Street North and 119th Street West for the Integrated Local Water Supply Plan. (County)
   c. Partial Acquisition of land in the Southeast Quarter of Section 8, Township 24 South, Range 2 West of the 6th Principal Meridian, Harvey County for the Integrated Local Water Supply Plan. (Harvey County)
   d. Partial Acquisition of land at 13221 West 125th Street North for the Integrated Local Water Supply Plan. (County)

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

8. Minutes of Advisory Boards/Commissions.

   District VI Advisory Board, January 4, 2010
   District VI Advisory Board, January 20, 2010
   Board of Code Standards and Appeals, January 11, 2010
   Arts Council, January 14, 2010
   Wichita Employees' Retirement System, December 16, 2009
   Wichita Board of Appeals of Plumbers and Gas Fitters Minutes, January 6, 2010
   Police and Fire Retirement System, December 16, 2009
   Joint Investment Committee, January 7, 2010

   RECOMMENDED ACTION: Receive and file.

9. Report on Claims for January 2010. (See Attached)

   RECOMMENDED ACTION: Receive and file.

10. Senior Management Expenses, November 2009. (See Attached)

    RECOMMENDED ACTION: Receive and file.

11. Senior Management Expenses, December 2009. (See Attached)

    RECOMMENDED ACTION: Receive and file.

12. Cheney Lake Watershed Staff Position - Memorandum of Understanding.

    RECOMMENDED ACTION: Approve the Memorandum of Understanding between the Cheney Lake Watershed, Inc. and the City of Wichita and authorize the necessary signatures.

13. Building Facade Improvements in the Core Area. (Districts I and VI)

    RECOMMENDED ACTION: Approve the project cost modifications for Broadway Plaza, Kaufman Building and Sutton Place; approve the Final Statements of Cost for Kaufman and Petroleum Buildings; approve the requests/petitions for improvements; accept the waiver and consent relating to special assessments; adopt the resolutions of findings of advisability for Broadway Plaza and Sutton Place; pass the special assessment ordinances for Kaufman and Petroleum Buildings and authorize publication of the ordinances.

14. Reimbursement and Encroachment Agreement with Southern Star Central Gas Pipeline, Inc.

    RECOMMENDED ACTION: Approve the Reimbursement and Encroachment Agreement with Southern Star Central Gas Pipeline and authorize the necessary signatures.

15. Amendment of Lease for Antenna Site at McDonald Golf Course. (District I)

    RECOMMENDED ACTION: Approve the lease amendment and authorize all necessary signatures.

16. Proposed 2010 Contract Street Maintenance Program.

    RECOMMENDED ACTION: Approve the 2010 Contract Street Maintenance Program.

17. Public Exigency Project, Replacement Video Board, Lawrence-Dumont Stadium. (District I)

    RECOMMENDED ACTION: Affirm the City Manager's Public Exigency approval of the project.

18. Intelligent Transportation Systems-Traffic Synchronization.

    RECOMMENDED ACTION: Authorize payment in the amount of $32,575.

19. Consent to Sale of Project, Broadmoor at Chelsea Acquisition, L.P. (District I)

    RECOMMENDED ACTION: Approve the Consent of Issuer, Base Lease Termination Agreement, Sublease Termination Agreement and Escrow Deposit Agreement in substantially the forms presented today, subject to stated conditions, and authorize necessary signatures and the execution and delivery of such further documents as may be required to release the property, subject to approval of such documents by the Law Department.

20. Easement across City-owned Property at 243 North Mead. (District VI)

    RECOMMENDED ACTION: Approve the permanent easement and authorize all necessary signatures.

21. ***Bonding Resolution - Century II Renovations Project.***

    (PULLED PER CITY MANAGER)

22. Resolution Authorizing Section 5316 Access to Jobs Grant from Federal Transit Administration.

    RECOMMENDED ACTION: Approve the resolution and authorize the necessary signatures.

23. 2010 Enforcing Underage Drinking Laws (EUDL) Grant.

    RECOMMENDED ACTION: Approve the application and award and authorize the appropriate signatures.

24. ***Contract Amendment for Providing Temporary/Seasonal Employment Services.***

    (PULLED PER CITYMANAGER)

25. Contract Amendment for Greater Wichita Convention and Visitors Bureau 2010.

    RECOMMENDED ACTION: Approve the contract amendment.

26. Acquisition by Eminent Domain of a Tract required for the Cowskin Creek Channel Improvement Project from Kellogg to Maple. (District V)

    RECOMMENDED ACTION: Adopt the resolution and approve 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.

27. Revision of City Council Policy 20.

RECOMMENDED ACTION: Amend Section 9 of City Council Policy 20 to permit during 2010, fundraising for the No More Hungry Kids campaign sponsored by the Kansas Food Bank.

28. Cheney Lake Watershed, Inc. - Working Agreement for Water Quality Projects.

RECOMMENDED ACTION: Approve the Working Agreement for Water Quality Projects between Cheney Lake Watershed, Inc. and the City of Wichita; and authorize the necessary signatures.

29. Reno County Conservation District and the City of Wichita - Memorandum of Understanding.

RECOMMENDED ACTION: Approve the Memorandum of Understanding between Reno County Conservation District and the City of Wichita; and authorize the necessary signatures.

30. Reno County Conservation District and Citizens' Management Committee - Working Agreement for Water Quality Projects.

RECOMMENDED ACTION: Approve the Working Agreement for Water Quality Projects between the Reno County Conservation District and the Citizens' Management Committee and the City of Wichita; and authorize the necessary signatures.

30a. ***Petition to relocate pipeline for Greenwich Office Park Addition, Home Bank and Trust Company Addition and unplatted tracts, north of 13th, west of Greenwich.*** ***(District II)***

RECOMMENDED ACTION: Approve the petition, adopt the resolution, authorize payment for the cost of the pipeline relocation and authorize the necessary signatures.

31. Second Reading Ordinances: (First Read February 9, 2010)
    a. List of second reading ordinances. (See Attached)

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

Agenda Item No. V-

City of Wichita
City Council Meeting
February 23, 2009

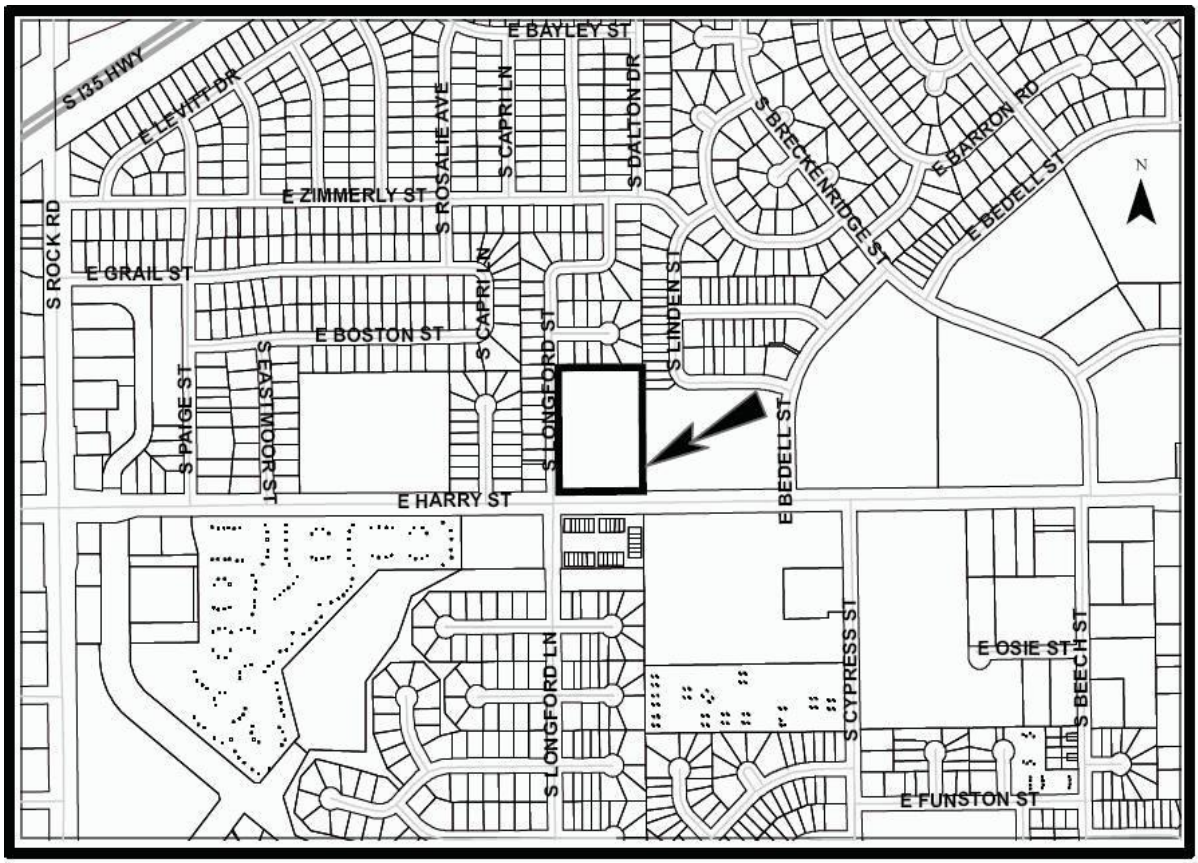
TO: Mayor and City Council

SUBJECT: PUD2008-00008 - Extension of time to complete the platting requirement for PUD-29, a City PUD (Planned Unit Development) for office development; generally located north of Harry and midway between Rock and Webb Roads. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPD Staff Recommendations: Approve extension of platting deadline to July 7, 2011.



Background: On July 7, 2009, the City Council approved the creation of PUD-29 subject to the condition of platting the property within one year. The applicant's attached letter is a request for a one-year platting extension to complete the platting process.

Analysis: Staff recommends that a platting time extension be granted. The City Council may deny the request for an extension of time to complete platting. However, denying the extension would declare the PUD null and void and would require reapplication and rehearing if the property owner still desired a PUD.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality.

Legal Considerations: No legal documents are required to grant the platting extension. The platting extension approval is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Recommendation/Actions: Approve an extension of the platting deadline to July 7, 2011.

RECEIVED
JAN 20 2010
METROPOLITAN PLANNING
ROUTE

Law Offices
ROBERT W. KAPLAN
430 North Market
Wichita, Kansas 67202-2074

Telephone (316) 262-5175
Facsimile (316) 262-7226
rkaplan@kmhlaw.net

January 15, 2010

John Schlegel
Metropolitan Area Planning Department
City of Wichita
455 N. Main Street
Wichita, KS 67202

Re: PUD-2008-00008 (Moussavi - Harry & Longford Streets)
Our File No. 13072-1

Dear Mr. Schlegel:

The Wichita City Council approved the above-referenced PUD on July 7, 2009. Since that time, the developer has been primarily out of state with family matters in New York and business matters in California. Although he has contacted a local engineering company to proceed with the platting work, it has not yet been done and communication with the proposed realtor for marketing has not yet resulted in a final plan for the plat.

Accordingly, we would ask that you consider this request for a one-year extension of the platting requirement in the referenced matter and confirm the extension in writing if approved.

The fee of $110.00 for the processing of this request is enclosed.

Very truly yours,

Robert W. Kaplan

RWK/atb
Enclosure
Cc: Russ Ewy
Bijan Moussavi

Agenda Item No. V-

City of Wichita
City Council Meeting
February 23, 2010

To: Mayor and City Council

Subject: ZON2009-00038 & CON2009-44 - City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") with a Conditional Use request for multiple duplexes on a single lot; generally located north of Central Avenue, west of Sheridan Avenue. (District VI)

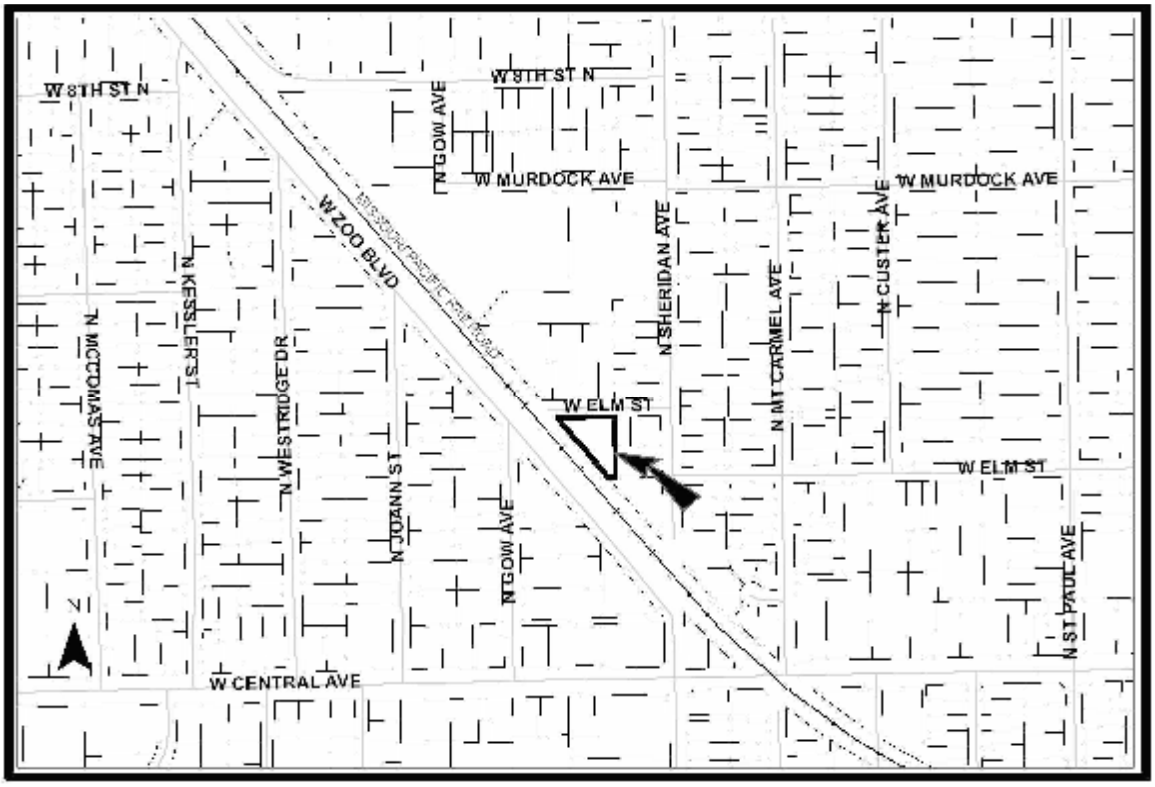
Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

MAPC Recommendations: Approve (9-0), subject to staff recommendations.

MAPD Staff Recommendations: Approve, subject to conditions and DAB VI's amended condition.

DAB VI Recommendations: Approve unanimously (7-0), subject to staff recommendation and an amended condition.



Background: The applicant is requesting TF-3 Two-family Residential ("TF-3") zoning on the undeveloped, 0.47+/- acre zoned SF-5 Single-family Residential ("SF-5") subject site; Lot 37, Davis Gardens Addition. The applicant also proposes a Conditional Use for multi-family residential, three duplexes (six dwelling units) on the one lot. A single duplex is meant to be developed on one lot. The minimum lot size for a duplex is 6,000-square feet. The Unified Zoning Code (UZC, Art III, Sec. III-B.6.c) permits a Conditional Use for Multi-family Residential development on a TF-3 zoned lot up to a density of 14.5 dwelling units per acre. The proposed three duplexes on the 0.47-acre site qualify as multi-family residential development that is within the UZC's maximum density of 14.5 dwelling units per acre. As proposed, the density will be approximately 13.6 dwelling units per acre if this lot was one-acre in size.

The site plan shows the proposed layout of the three duplexes on the triangular shaped lot. It shows each duplex having an attached two car garage serving both dwelling units. The UZC requires one off-street parking space per dwelling unit for a duplex, and the garage qualifies for the required off street parking; Art IV, Sec IV-A.4 and A.7. The site plan shows additional off-street parking along the site's Elm Street (right-of-way, ROW) frontage and within the front setback. The UZC permits additional off-street parking for duplexes in residential zoning districts when the setback area of the lot is abutting a street having on-street parking limitations and there is no reasonable access to the interior side or rear setbacks, provided that the total surfaced area within the setback shall not exceed 750-sqaure feet or 50% of the required setback, whichever is greater; Art IV, Sec IV-A.6-a (4). As presented on the site plan, the proposed additional off-street parking does not meet this standard. The proposed duplexes will be approximately 800-square feet, have two bedrooms, one bath, 12-inch lap, Hardie-board type of siding, with gable roofs and the before mentioned attached two car garage; the proposed duplexes will look very similar to the duplexes abutting the east side of the site.

Development in the area is a mix of mostly single-family residences, some two-story apartments and scattered duplexes. Zoning in the area is mostly SF-5, with some B Multi-family Residential ("B") and MF-29 Multi-family Residential ("MF-29") zoning located along an active railroad track (RR tracks) and scattered TF-3 zoning. Properties north of the site, across Elm Street, are zoned SF-5 and are developed as single-family residences (built 1940s) or are not developed. B zoned apartments abut the north side of the vacant SF-5 zoned lot. Properties abutting the east side of the site are developed as three duplexes zoned TF-3 (ZON2005-09/CON2005-09) and as a group of two-story apartments zoned MF-29 (Z-2431). A portion of the MF-29 zoning abuts the south side of the site with an active RR track and Zoo Boulevard abutting the rest of the south and west sides of the site. There is no access across the RR tracks and Zoo Boulevard from the site and the immediate area, with both Elm Streets and Sheridan Avenue dead ending as cul-de-sacs at the RR tracks. The site has frontage on Elm Street, a sand and gravel local residential street.

Analysis: At the DAB VI meeting held on January 20, 2010, the DAB considered the requested TF-3 zoning and a Conditional Use to permit three duplexes on the rezoned, platted 0.47-acre site, subject to the following conditions of CON2009-44:

1. The site shall be limited to three duplexes and six total dwelling units.
2. The site shall be developed in general conformance with an approved site plan.
3. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing and health codes.
4. Provide a no protest petition for the paving of Elm Street, to be recorded with Public Works.
5. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The DAB recommended approval (7-0) of the requested TF-3 zoning. The DAB approved CON2009-44, but amended condition #1 as underlined:

1. The site shall be limited to a maximum of three duplexes for a total of six total dwelling units. <u>The site shall provide one additional parking space per duplex, beyond the Unified Zoning</u>

Code's (UZC) required one parking space per duplex. Location of all parking shall conform to the UZC's standards and be shown on a revised and approved site plan.

There were no members of the public that spoke in opposition at the DAB meeting.

At the MAPC meeting held on January 21, 2010, the MAPC voted to approve (9-0) the requested TF-3 zoning and CON2009-44, to permit three duplexes on the rezoned, platted 0.47-acre site, subject to the conditions as recommended by staff and the amendment to condition #1 by DAB VI. There were no members of the public that spoke in opposition at the MAPC meeting.

Because there have not been any protests recorded for the requested TF-3 zoning change and CON2009-44, the recommendation for approval for CON2009-44 by the MAPC is final; the Council's action is limited to the requested TF-3 zoning.

Financial Considerations: The applicant will provide a no protest petition for the paving of Elm Street, to be recorded with Public Works.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Concur with the findings of the MAPC, and approve the zone change; place the ordinance establishing the zone change 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.)

Attachment: Ordinance.

EXCERPT OF THE JANUARY 21, 2010 MAPC HEARING

Case No.: ZON2009-38 and CON2009-44 - Dennis Niedens (applicant) / Roger Frank (owner) Request City Zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential and City Conditional Use for Multi-Family on property zoned TF-3 Two-Family Residential on property described as:

Lot 37; Davis Gardens Addition, Wichita, Sedgwick County, Kansas, generally located north of Central Avenue, west of Sheridan Avenue, on the south side of Elm Street.

BACKGROUND: The applicant is requesting TF-3 Two-family Residential ("TF-3") zoning on the undeveloped, 0.47+/- acre zoned SF-5 Single-family Residential ("SF-5") subject site; Lot 37, Davis Gardens Addition. The applicant also proposes a Conditional Use for multi-family residential, three duplexes (six dwelling units) on the one lot. A single duplex is meant to be developed on one lot. The minimum lot size for a duplex is 6,000-square feet. The Unified Zoning Code (UZC, Art III, Sec III-B.6.c) permits a Conditional Use for Multi-family Residential development on a TF-3 zoned lot up to a density of 14.5 dwelling units per acre. The proposed three duplexes on the 0.47-acre site qualify as multi-family residential development that is within the UZC's maximum density of 14.5 dwelling units per acres. As proposed, the density will be approximately 13.6 dwelling units per acre if this lot was one-acre in size.

The site plan shows the proposed layout of the three duplexes on the triangular shaped lot. It shows each duplex having an attached two car garage serving both dwelling units. The UZC requires one off-street parking space per dwelling unit for a duplex and the garage qualifies for the required off street parking; Art IV, Sec IV-A.4 & A.7. The site plan shows additional off-street parking along the site's Elm Street (right-of-way, ROW) frontage, within the front setback. The UZC permits additional off-street parking for duplexes in residential zoning districts when the setback area of the lot is abutting a street having on-street parking limitations and there is no reasonable access to the interior side or rear setbacks, provided that the total surfaced area within the setback shall not exceed 750-sqaure feet or 50% of the required setback, whichever is greater; Art IV, Sec IV-A.6-a (4). As presented on the site plan the proposed additional off-street parking does not meet this standard. The proposed duplexes will be approximately 800-square feet, have two bedrooms, one bath, 12-inch lap, Hardie-board type of siding, with gable roofs and the before mentioned attached two car garage; the proposed duplexes will look very similar to the duplexes abutting the east side of the site.

Development in the area is a mix of mostly single-family residences, some two-story apartments and scattered duplexes. Zoning in the area is mostly SF-5, with some B Multi-family Residential ("B") and MF-29 Multi-family Residential ("MF-29") zoning located along an active rail road track (RR tracks), and scattered TF-3 zoning. Properties north of the site, across Elm Street, are zoned SF-5 and are developed as single-family residences (built 1940s) or are not developed. B zoned apartments abut the north side of the vacant SF-5 zoned lot. Properties abutting the east side of the site are developed as three duplexes zoned TF-3 (ZON2005-09/CON2005-09) and as a group of two-story apartments zoned MF-29 (Z-2431). A portion of the MF-29 zoning abuts the south side of the site, with an active RR track and Zoo Boulevard abutting the rest of the south and west sides of the site. There is no access across the RR tracks and Zoo from the site and the immediate area, with both Elm Streets and Sheridan Avenue dead ending as cul-de-sacs at the RR tracks. The site has frontage on Elm, a sand and gravel, local residential street.

CASE HISTORY: The undeveloped site is Lot 37, Davis Gardens Addition, which was recorded with the Register of deeds May 28, 1930. The 1997 aerial of the site shows it to be undeveloped.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, B	Undeveloped, single-family residences, two-story apartments
SOUTH:	MF-29, ROW	Two-story apartments, RR tracks, Zoo Boulevard
EAST:	TF-3, MF-29	Duplexes, two-story apartments
WEST:	ROW	RR tracks, Zoo Boulevard

PUBLIC SERVICES: The site has frontage on Elm Street, a sand and gravel, local residential street, with 60-foot of ROW. Elm intersects with Sheridan Avenue, a paved, local residential street, located approximately 170 feet east of the site. Neither street has recorded traffic counts. The closest major intersection to the subject site is Zoo Boulevard and Central Avenue, located approximately 1,000 feet south of the subject site. There is no access across the RR tracks and Zoo from the site and the immediate area, with both Elm and Sheridan dead ending as cul-de-sacs at the RR tracks. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies the application area as "Urban Residential." The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The UZC identifies the TF-3 zoning district as meant to accommodate moderate density single-family residential and duplex developments as well as very limited multi-family residential development. The UZC also identifies the TF-3 zoning district as being compatible with the Urban Residential category. The proposed duplex development conforms to both the 2030 Wichita Functional Land Use Guide's Urban Residential category and the UZC's intent for the TCF-3 zoning district.

The Comprehensive Plan's "Residential Locational Guidelines" for medium and high density residential states that such uses should be: (1) Transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses. The proposed duplex development serves as a transition and buffer between the existing single-family residences and the traffic from the active RR tracks and Zoo Boulevard, an arterial street. (2) Allocated to be within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines. The site is not located in an area which easily lends itself to walking to commercial centers, parks or schools, however the proposed site/development is located approximately 1,000 feet (by vehicle) north of Zoo and Central Avenue, both arterials which can direct traffic from the site to employment or those areas sited. (3) Directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods. The site has no direct access to an arterial or a collector street. Traffic generated off of the site would use residential streets to get to either Zoo or Central. (4) Sited where they will not overload or create congestion in existing and planned facilities/utilities. Proximity to the RR tracks has possibly contributed to the concentration of multi-family residential development in this area where access to arterials or collector streets is through residential neighborhoods.

This request mostly conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan, which encourages residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. The site's weakness is its lack of direct access to a collector or arterial street,

which it shares with the immediate area's existing multi-family residential development.

RECOMMENDATION: The area is a mix of mostly single-family residences, some two story apartments and scattered duplexes. The proposed duplex development is not out of character with the area. The site's weakness is its lack of direct access to a collector or arterial street, which it shares with the immediate area's existing multi-family residential development. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

A. APPROVE the zone change (ZON2009-38) to TF-3 Two-family Residential ("TF-3").

B. APPROVE the Conditional Use Request (CON2009-44), subject to the following conditions:

1. The site shall be limited to three duplexes and six total dwelling units.

2. The site shall be developed in general conformance with an approved site plan.

3. Development on the site shall conform to all applicable codes to include zoning, building, landscape, housing, and health codes.

4. Provide a no protest petition for the paving of Elm Street, to be recorded with Public Works.

5. 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 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: Development in the area is a mix of mostly single-family residences, some two story apartments and scattered duplexes. Zoning in the area is mostly SF-5, with some B Multi-family Residential ("B") and MF-29 Multi-family Residential ("MF-29") zoning located along an active rail road track (RR tracks), and scattered TF-3 zoning. Properties north of the site, across Elm Street, are zoned SF-5 and are developed as single-family residences (built 1940s) or are not developed. Properties abutting the east side of the site are developed as three duplexes zoned TF-3 (ZON2005-09/CON2005-09) and a group of two-story apartments zoned MF-29 (Z-2431). A portion of the MF-29 zoning abuts the south side of the site, with an active RR track and Zoo Boulevard abutting the rest of the south and west sides of the site. There is no access across the RR tracks and Zoo from the site and the immediate area, with both Elm Streets and Sheridan Avenue dead ending as cul-de-sacs at the RR tracks.

2. The suitability of the subject property for the uses to which it has been restricted: The triangular shaped property could be developed as single-family residential (two single-family residential sites by a lot split) as currently zoned, although it's abutting the RR tracks and adjoining Zoo Boulevard (an arterial street) make it less attractive for single-family residential development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed TF-3 zoning and its companion Conditional Use is not out of character with the areas existing B, MF-29, TF-3 and SF-5 zoning and the two story apartments, duplexes and single-family residences. In fact the abutting eastern property was approved for the same TF-3 zoning and a similar duplex development; ZON2005-09/CON2005-09.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: This request mostly conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan, which encourages residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. The site's weakness is its lack of direct access to a collector or arterial street, which it shares with the immediate area's existing multi-family residential development; see "CONFORMANCE TO PLANS/POLICIES" portion of this report.

5. Impact of the proposed development on community facilities: An increase in traffic onto Elm Street, a sand and gravel residential street, and subsequently through the residential neighborhood is the biggest impact on community facilities. Agreeing to a no protest petition for the paving of Elm will lessen this impact.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER referenced the site plan which showed off street parking abutting West Elm Street and asked if that was allowed.

LONGNECKER referenced paragraph 2, page 2 of the Staff Report, which noted that the parking off of Elm could not be located as shown on the site plan. He also said the parking area could probably be manipulated on the site plan to get the parking in conformance with the zoning code. He noted that the parking off of Elm was in excess of the required parking and was a courtesy parking. He added that the attached garages met the zoning code's required parking for duplexes. He referenced the DAB VI memo hand out wherein they requested that one additional on-site parking space per unit be approved, which was the applicant's intent.

DENNIS NEIDENS, APPLICANT said he has a contract with the property owner, Roger Frank, which is contingent upon this request being approved. He said he attended the DAB VI meeting and agreed to add one off street parking space for each unit, which was his intent as shown on the site plan. He also stated that he had enough room on the site to get the additional parking into compliance

LARRY WOOD said he lived across the road from the proposed development. He said it is a dead end street with a cul-de-sac which will need to be paved or they won't be able to have that many people in there. He said he doesn't want the street paved.

HILLMAN asked would it be considered a cul-de-sac by the Fire Department and if so, is it large enough for radial turns.

LONGNECKER replied that use made a cul-de-sac, as it was not platted. He noted that The Fire Department did not have a problem with Elm, as it was a short street. He said the Fire Department would prefer that all roads were paved and that the applicant had agreed to a no protest petition for the paving of Elm, at such time when it was scheduled to be paved. He also noted that there were no plans of CIPs for the paving of Elm, at this time.

HILLMAN asked about the location of the fire hydrants in the area.

WOOD said there are fire hydrants at Elm and Sheridan.

LONGNECKER confirmed the location of the fire hydrant on the corner of Elm and Sheridan, with a slide of the intersection.

MOTION: To approve subject to staff recommendation, including one additional off-street parking space per unit.

FOSTER moved, **DOWNING** seconded the motion, and it carried (9-0).

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **ZON2009-00038 and CON2009-00044**
City zone change from SF-5 Single-family residential to TF-3 Two-family Residential to allow a Conditional Use for Multi-family Residential. North of Central Avenue, west of Sheridan Avenue, on the south side of Elm Street.

DATE: January 21, 2010

On Wednesday, January 20, 2010 the District VI Advisory Board (DAB) considered a City zone change from SF-5 Single-family residential to TF-3 Two-family Residential to allow a Conditional Use for Multi-family Residential. North of Central Avenue, west of Sheridan Avenue, on the south side of Elm Street.

The members were provided the MAPD staff report for review prior to the meeting. *Bill Longnecker*, Planner presented the case background, reviewed the staff recommendation and answered questions of members and the public.

The Board asked the following questions/comments:

- Would there be enough room for emergency vehicles to get into the area?
- Are there any drainage issues?
- Will there be fencing around the duplexes due to the railroad tracks?
- How many parking spots will there be? There could be off-street parking along the un-paved road.
- Would the applicant be willing to do a paving petition?
- Will there be storm water drainage that could affect other property owners?

One member of the public asked what does the owner/applicant mean by having 50% ownership for being able to do paving and was drainage considered when developing this plan. Also, does staff take into consideration any other violations the owner/applicant already has before approving this request.

******Action:** The District VI Advisory Board members made a motion to recommend to City Council Approval (**7-0**) of the Zone Change request based on staff recommendations.

******Action:** The District VI Advisory Board members made a motion to recommend to City Council Approval (**6-1**) of the Conditional Use request based on staff recommendations and to include a revised site plan that meets parking zoning requirements including one additional off-site parking per unit.

Please review this information when **ZON2009-00038 and CON2009-00044** is considered.

mtd

ORDINANCE NO. _____

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. ZON2009-00038

Zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on property described as:

Lot 37, Davis Gardens Addition, Wichita, Sedgwick County, Kansas; generally located north of Central Avenue, west of, west of Sheridan Avenue, on the south side of Elm Street.

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, _____

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, City Attorney

Agenda Item No. V-

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

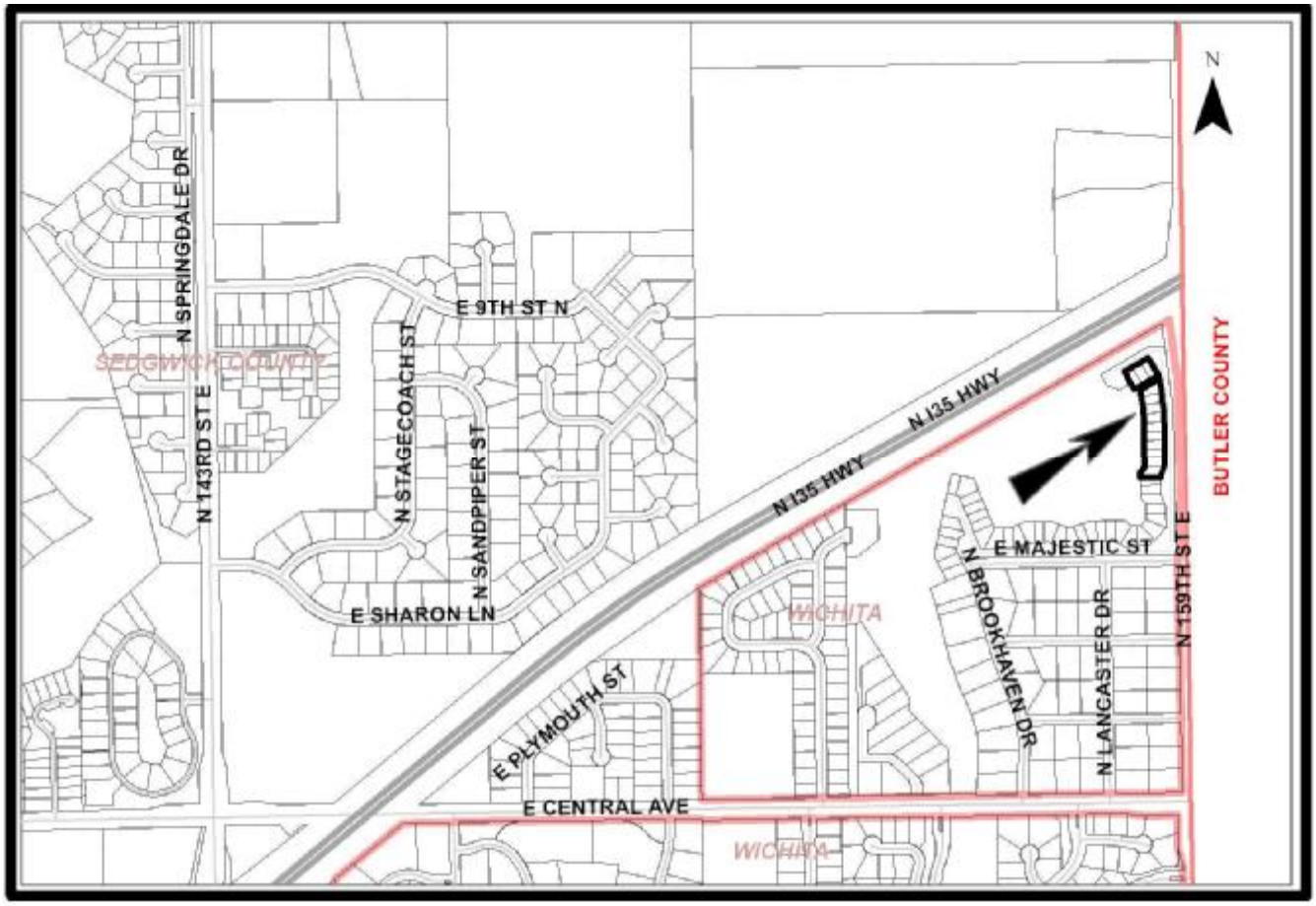
SUBJECT: ZON2009-00039 – City zone change from SF-5 Single-family Residential ("SF-5") to MF-18 Multi-family Residential ("MF-18"); generally located west of 159th Street East and 1/3 mile north of East Central Avenue. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approve, vote (10-0).

MAPD Staff Recommendation: Approve.



Background: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to MF-18 Multi-family Residential ("MF-18") on two acres comprised of Lot 35, Block 2 and Lot 47, Block 2 through Lot 34, Block 2, except the South 42.79 feet thereof, all in Terradyne West an Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, which is 1/3 mile north of Central Avenue. The applicant proposes to develop the property with multi-family uses, possibly including duplexes, tri-plexes and four-plexes.

Property north of the site, across the Kansas Turnpike, is zoned SF-20 Single-family Residential ("SF-20") and developed with single-family residences with farming and ranching. South of the site is property zoned SF-5 and is currently vacant, undeveloped land. Property to the west of the site is also zoned SF-5 and is developed with a golf course/country club use. Property to the east of the site, across North 159th St. East, is in Butler County and is developed as a golf course/country club.

Analysis: At the MAPC meeting held January 21, 2010, the MAPC voted (10-0) to recommend approval of the request for MF-18 zoning. 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 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.)

EXCERPT OF THE JANUARY 21, 2010 MAPC HEARING

Case No.: ZON2009-39 - Craig Smith (Owner/Applicant) Bill Fox, c/o Poe & Associates (Agent) Request City zone change from SF-5 Single-Family Residential to MF-18 Multi-Family Residential on property described as:

Lots 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas, generally located west of 159th Street East and north of Sharon Lane,1/3 mile north of Central Avenue.

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to MF-18 Multi-family Residential ("MF-18") on two acres consisting of Lot 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof, all in Terradyne West an Addition to Wichita, Sedgwick County, Kansas. The subject site is located west of 159th Street East and north of Sharon Lane, 1/3 mile north of Central Avenue. The applicant proposes to develop the property with multi-family uses, possibly including duplexes, tri-plexes and four-plexes. The property has been zoned SF-5 since 2006 but has remained vacant. The applicant is of the opinion that rezoning the property would increase the marketability of the lots without harming the owners of the few lots that have already sold.

Property north of the site, across the Kansas Turnpike, is zoned SF-20 Single-family Residential ("SF-20") and developed with single-family residences with farming and ranching. South of the site is property zoned SF-5 and is currently vacant, undeveloped land. Property to the west of the site is also zoned SF-5 and is developed with a golf course/country club use. Property to the east of the site, across North 159th St. East, is in Butler County and is developed as a golf course/country club.

CASE HISTORY: The site is Lots 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof; Terradyne West Addition, Wichita, Sedgwick County, Kansas, which was recorded with the Register of Deeds December 6, 2006. The site is located outside of the floodplain and was annexed into the City of Wichita in October of 2006.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Farming (Turnpike)
SOUTH:	SF-5	Single-family Residences
EAST:	Butler County	Country Club/Residences
WEST:	SF-5	Golf Course

PUBLIC SERVICES: 159th Street East is classified as a two-lane, paved minor arterial road with no traffic counts. The street that accesses the subject area from 159th Street East is North Prairie Dunes Street, which is a two-lane, paved residential road with no traffic counts. Municipal water and sewer does serve the subject area.

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 within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. Since the Land Use Guide was amended in 2005, this subject area has been annexed into the city.

The Comprehensive Plan objective for residential use for Wichita (**Objective III.B**) is to "encourage residential redevelopment, infill and higher density residential development, that maximizes the public

investment in existing and planned facilities and services," as well as **Strategy II.A.1** which recommends that "use Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering." **Strategy II.B.4** seeks to reduce Evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas.

Residential Locational Guideline #3 of the *Comprehensive Plan* recommends that medium-density residential uses may serve as a transitional land use between low and high density residential uses, and may also serve to buffer low-density residential uses from commercial uses. The proposed development complies with this guideline. **Residential Locational Guidelines #5** recommends that medium and high-density residential uses should be directly accessible to arterial or collector streets, in order to avoid high traffic volumes in lower density residential neighborhoods; and **#6** medium and high-density residential uses should be sited where they will not overload or create congestion in existing and planned facilities/utilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the MF-18 Multi-family Residential ("MF-18") zoning be **APPROVED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site, across the Kansas Turnpike, is zoned SF-20 Single-family Residential ("SF-20") and developed with single-family residences with farming and ranching. South of the site is property zoned SF-5 and is currently vacant, undeveloped land. Property to the west of the site is also zoned SF-5 and is developed with a golf course/country club use. Property to the east of the site, across North 159th Street East, is in Butler County and is developed as a golf course/country club.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5. The SF-5 zone district primarily restricts the site to residential uses. Because the site is near an interstate highway, it may not be desirable for single-family development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would double or triple the density at which the subject area could be developed, depending on duplex or multi-family development. The effect on nearby residents would be increased traffic on North Prairie Dunes Street. However, single-family residences generate more traffic per unit than multi-family residences. The minimum standards of the Unified Zoning Code should mitigate any other potential negative effects on the surrounding residential neighbors.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial presumabley could cause the applicant a relative economic loss. Approval would introduce multi-family residential uses as infill development in a country club setting where such uses are increasing in popularity, especially high end condo development.

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 within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category

encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category.

6. Length of time the property has remained vacant as currently zoned: The property was platted for single-family residences in 2006, and is currently undeveloped today.

7. Impact of the proposed development on community facilities: Approval of the request should not have a negative impact on community facilities; especially since all sewer and water lines are in place and roads have already been constructed.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

ORDINANCE NO. _____

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. ZON2009-00039

Zone change request from SF-5 Single-family Residential ("SF-5") to MF-18 Multi-family Residential ("MF-18") on property described as:

> Lot 35, Block 2, through Lot 47, Block 2, and Lot 34, Block 2, except the South 42.79 feet thereof, Terradyne West Addition, Wichita, Sedgwick County, Kansas; generally located west of 159th Street East and 1/3 mile north of East Central Avenue.

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 _____ day of _____, 20__.

ATTEST:

_____ _____
Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Housing Authority Board

SUBJECT: 2010 Utility Allowance – Section 8 Housing Choice Voucher Program

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommendation: Approve and adopt the 2010 Utility Allowance.

Background: Housing Authorities are required by the U.S. Department of Housing and Urban Development (HUD) to calculate the allowance for tenant-furnished utilities and subtract that amount from the tenant's adjusted gross rent. The balance is the amount payable to the landlord for rent. Utility allowances are not direct compensation to the tenants for their utility consumption.

The calculation of utility allowances is based on actual rates and average consumption; rates are adjusted based on the type of rental unit structure and the number of bedrooms.

The Quality Housing and Work Responsibilities Act of 1998 requires an annual review of utility allowances and to adjust the allowance if there has been a change (increase/decrease) of 10% or more in utility rates in the community. The Wichita Housing Authority Board must review and approve the utility allowances prior to implementation by the Wichita Housing Authority (WHA).

Analysis: In January 2010, WHA staff conducted a review of utility rates in Wichita based on information available from utility suppliers, to determine the appropriate consumption for an energy-conserving household. The review took into account different structure types for homes and apartments. This review found that the rate changes are less than 10% and therefore do not require a change in the utility allowance schedule. It is therefore recommended that the 2010 allowances remain the same as the 2009 allowances. The 2010 Utility Allowance Schedule is attached.

Financial Considerations: None.

Legal Considerations: This is an action required by HUD.

Goal Impact: Promote Economic Vitality and Affordable Living.

Recommended Action: It is recommended that the Wichita Housing Authority approve and adopt the 2010 Utility Allowance, and make it effective on April 1, 2010 for new clients and on the next recertification of current clients after May 1, 2010.

Attachments: 2010 Utility Allowance Schedule

WICHITA HOUSING AUTHORITY
SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
UTILITY ALLOWANCE SCHEDULE
FOR THE WICHITA METROPOLITAN AREA – 2010

Structure Type: Single Family – Town/Row Houses – Twin – Duplex

Utility or Service	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Gas Heat	33	43	57	70	88	101	116
Electric Heat	34	41	62	75	96	109	124
Gas Range	4	5	7	10	11	12	13
Electric Range	3	6	8	9	11	13	14
Other Electric (lighting & monthly basics)	19	23	29	33	41	45	52
Air Conditioning	7	10	12	15	19	22	25
Gas Water Heating	11	15	19	23	29	34	38
Electric Water Heating	12	13	22	28	34	40	45
Water	8	16	20	22	23	25	29
Sewer	9	14	21	24	29	32	37
Trash Collection	20	20	20	20	20	20	20
Range (Tenant Owned)	9	9	9	9	9	9	9
Refrigerator (Tenant Owned)	10	10	10	10	10	10	10

Structure Type: Low/High Rise – Garden Walkup – Mobile – Manufactured

Utility or Service	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Gas Heat	29	39	50	62	79	90	104
Electric Heat	29	41	55	66	83	95	109
Gas Range	5	6	7	10	11	13	15
Electric Range	4	6	8	8	12	14	15
Other Electric (lighting & monthly basics)	19	25	29	35	43	47	54
Air Conditioning	7	10	12	15	19	22	25
Gas Water Heating	11	16	21	24	32	37	41
Electric Water Heating	12	18	23	29	36	41	47
Water	8	14	16	19	22	25	29
Sewer	12	16	22	29	34	41	47
Trash Collection	20	20	20	20	20	20	20
Range (Tenant Owned)	9	9	9	9	9	9	9
Refrigerator (Tenant Owned)	10	10	10	10	10	10	10

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Housing Authority Board

SUBJECT: 2010 Payment Standards – Section 8 Housing Choice Voucher Program

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommendation: Approve the Payment Standards for the Section 8 Housing Choice Voucher Program.

Background: The Quality Housing and Work Responsibility Act (QHWRA) of 1998 require that housing authorities establish Section 8 Housing Choice Voucher Payment Standards between 90% and 110% of the Published Fair Market Rent for each bedroom size. The payment standards are used to calculate the amount of the monthly subsidy paid to landlords, and take into account tenant-paid utilities. The QHWRA also includes a provision that a family, who initially receives Section 8 tenant-based assistance, may not be required to pay more than 40% of its adjusted monthly income for rent and utilities.

The U.S. Department of Housing and Urban Development (HUD) published a notice of Fair Market Rents (FMRs), effective October 1, 2009. These FMRs are calculated to be at the 50th percentile of rents in the Wichita area, and include an allowance for utilities.

Analysis: In order to determine appropriate rent rates for the Wichita Housing Authority (WHA) based on the latest published Fair Market Rent schedule, staff reviewed requests for tenancy and actual rents for the months of January through December 2009, calculated an average rent payment. The staff review found that the current payment standards are within HUD's definition. Therefore the WHA recommends that the current payment standard remain the same in 2010: 0 bedroom size at 99% of the 2009 FMR, one & two bedrooms at 109% of 2009 FMR, three bedrooms at 108% of 2009 FMR, and four bedroom units at 104% of 2009 FMR, and five and six bedroom units at 99% of the 2009 FMR.

Following is a table of the October 2009 FMR, the current WHA payment standards and the recommended WHA payment standards based on bedroom sizes:

	BEDROOM SIZE						
	0	1	2	3	4	5	6
FMR (10/1/2009)	435	487	640	819	920	1058	1196
Current Pymt. Standard	430	529	695	888	954	1045	1181
Recommended Standard	430	529	695	888	954	1045	1181

Financial Consideration: Wichita Housing Authority staff recommends these standards in order to meet its goal of assisting as many households as possible.

Legal Considerations: The Wichita Housing Authority Board must approve the payment standards.

Goal Impact: Promote Economic Vitality and Affordable Living.

Recommended Action: It is recommended that the Wichita Housing Authority Board approve the Payment Standards for the Section 8 Housing Choice Voucher Program to be effective on April 1, 2010 for new clients and current clients who are relocating, and as of May 1, 2010 for current clients as determined by their recertification dates.

Attachments: None

Agenda Item No. VII-

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Housing Authority Board

SUBJECT: Section 8 Management Assessment Program (SEMAP) Certification

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommended Action: Approve submission of the 2009 Section 8 Management Assessment Program (SEMAP) certification.

Background: On October 6, 1998 the U.S. Department of Housing and Urban Development (HUD) issued final rules for the Section 8 Rental Voucher and Certificate Programs, Section 8 Management Assessment Program (SEMAP). SEMAP is a Management Assessment System that HUD uses to annually measure the performance of all housing authorities that administer the Section 8 Tenant Based Rental Assistance Program. Under the SEMAP, HUD evaluates the housing authority's performance on 14 key indicators that demonstrate how well eligible families are provided housing assistance at a reasonable subsidy cost.

Analysis: Housing authorities must certify as to their program performance under these 14 standards within 60 days after the end of the authorities' fiscal year. The Wichita Housing Authority (WHA)'s fiscal year ended on December 31, 2009, so the certification is due on February 28, 2010.

Following is a list of the indicators. The WHA's certification of compliance is attached.

1. Selection from the Waiting List (15 points): The HA has a written policy for selecting applicants and follows these policies when selecting applicants from the waiting list.

2. Reasonable Rent (20 points): The HA has implemented written methods to determine reasonable rents.

3. Determination of Adjusted Income (20 points): The HA correctly determines adjusted annual income.

4. Utility Allowance Schedule (5 points): The HA maintains up to date utility allowance schedules.

5. Housing Quality Standard (HQS) Control Inspections (5 points): An HA supervisor re-inspects a sample of units for quality control.

6. HQS Enforcement (10 points): HQS inspection deficiencies are corrected in a timely manner.

7. Expanding Housing Opportunities (5 points): The HA has adopted and implemented a written policy to encourage participation in areas outside poverty or minority concentrations.

8. Fair Market Rent limit and Payment Standards (5 points): Gross rents for 98% of new units leased are applicable and reasonable.

9. Annual Reexaminations (10 points): The HA completes an annual reexamination for each tenant.

10. Correct Tenant Rent Calculations (5 points): The HA correctly calculates tenant rents.

11. Pre-Contract HQS Inspections (5 points): Newly leased units pass HQS before the beginning date of lease.

12. Annual HQS Inspections (10 points): Each unit is inspected annually and on time.

13. Lease up (20 points): The HA enters HAP contracts for the number of units under budget for at least one year. The standard is 98%.

14. Family Self-Sufficiency Enrollment and Escrow Accounts (10 points): Measures the percentage of required families enrolled in FSS program and the percentage that has escrow accounts. The standards are 80% and 30%, respectively.

The total number of points to be awarded is 145. Five bonus points are available to housing authorities that achieve certain de-concentration goals during the year. A housing authority with a SEMAP score of at least 90% is rated a High Performer. Housing authorities with a SEMAP score of 60-80% are rated as Standard. Housing authorities with scores of less than 60% are rated "troubled" and are subject to an onsite review by HUD and are required to develop a corrective action plan. The Wichita Housing Authority's Section 8 Housing Choice Voucher program was rated as a High Performer for 2008.

The Wichita Housing Authority Section 8 Housing Choice Voucher program has prepared a self-evaluation, which rates the Authority as a high performer for 2009. The self-evaluation must be submitted to HUD for approval.

Financial Considerations: Housing authorities with a "high performer" rating may be given competitive advantage under notices of fund availability.

Legal Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Recommended Action: It is recommended that the Wichita Housing Authority approve submission of the 2009 Section 8 Management Assessment Program (SEMAP) certification.

Attachment: Section 8 Management Assessment Program (SEMAP) Certification

Section 8 Management Assessment Program (SEMAP) Certification

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0215 (exp. 1/31/2010)

Public reporting burden for this collection of information is estimated to average 12 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 you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This collection of information is required by 24 CFR sec 985.101 which requires a Public Housing Agency (PHA) administering a Section 8 tenant-based assistance program to submit an annual SEMAP Certification within 60 days after the end of its fiscal year. The information from the PHA concerns the performance of the PHA and provides assurance that there is no evidence of seriously deficient performance. HUD uses the information and other data to assess PHA management capabilities and deficiencies, and to assign an overall performance rating to the PHA. Responses are mandatory and the information collected does not lend itself to confidentiality.

Instructions Respond to this certification form using the PHA's actual data for the fiscal year just ended.

PHA Name	For PHA FY Ending (mm/dd/yyyy)	Submission Date (mm/dd/yyyy)
Wichita Housing Authority	12/31/2009	02/23/2010

Check here if the PHA expends less than $300,000 a year in Federal awards ☐

Indicators 1 - 7 will not be rated if the PHA expends less than $300,000 a year in Federal awards and its Section 8 programs are not audited for compliance with regulations by an independent auditor. A PHA that expends less than $300,000 in Federal awards in a year must still complete the certification for these indicators.

Performance Indicators

1. Selection from the Waiting List. (24 CFR 982.54(d)(1) and 982.204(a))
(a) The PHA has written policies in its administrative plan for selecting applicants from the waiting list.

PHA Response **Yes** ✓ **No** ☐

(b) The PHA's quality control samples of applicants reaching the top of the waiting list and of admissions show that at least 98% of the families in the samples were selected from the waiting list for admission in accordance with the PHA's policies and met the selection criteria that determined their places on the waiting list and their order of selection.

PHA Response **Yes** ✓ **No** ☐

2. Reasonable Rent. (24 CFR 982.4, 982.54(d)(15), 982.158(f)(7) and 982.507)
(a) The PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units (i) at the time of initial leasing, (ii) before any increase in the rent to owner, and (iii) at the HAP contract anniversary if there is a 5 percent decrease in the published FMR in effect 60 days before the HAP contract anniversary. The PHA's method takes into consideration the location, size, type, quality, and age of the program unit and of similar unassisted units, and any amenities, housing services, maintenance or utilities provided by the owners.

PHA Response **Yes** ✓ **No** ☐

(b) The PHA's quality control sample of tenant files for which a determination of reasonable rent was required shows that the PHA followed its written method to determine reasonable rent and documented its determination that the rent to owner is reasonable as required for (check one):

PHA Response ✓ **At least 98% of units sampled** ☐ **80 to 97% of units sampled** ☐ **Less than 80% of units sampled**

3. Determination of Adjusted Income. (24 CFR part 5, subpart F and 24 CFR 982.516)
The PHA's quality control sample of tenant files shows that at the time of admission and reexamination, the PHA properly obtained third party verification of adjusted income or documented why third party verification was not available; used the verified information in determining adjusted income; properly attributed allowances for expenses; and, where the family is responsible for utilities under the lease, the PHA used the appropriate utility allowances for the unit leased in determining the gross rent for (check one):

PHA Response ☐ **At least 90% of files sampled** ✓ **80 to 89% of files sampled** ☐ **Less than 80% of files sampled**

4. Utility Allowance Schedule. (24 CFR 982.517)
The PHA maintains an up-to-date utility allowance schedule. The PHA reviewed utility rate data that it obtained within the last 12 months, and adjusted its utility allowance schedule if there has been a change of 10% or more in a utility rate since the last time the utility allowance schedule was revised.

PHA Response **Yes** ✓ **No** ☐

5. HQS Quality Control Inspections. (24 CFR 982.405(b))
A PHA supervisor (or other qualified person) reinspected a sample of units during the PHA fiscal year, which met the minimum sample size required by HUD (see 24 CFR 985.2), for quality control of HQS inspections. The PHA supervisor's reinspected sample was drawn from recently completed HQS inspections and represents a cross section of neighborhoods and the work of a cross section of inspectors.

PHA Response **Yes** ✓ **No** ☐

6. HQS Enforcement. (24 CFR 982.404)
The PHA's quality control sample of case files with failed HQS inspections shows that, for all cases sampled, any cited life-threatening HQS deficiencies were corrected within 24 hours from the inspection and, all other cited HQS deficiencies were corrected within no more than 30 calendar days from the inspection or any PHA-approved extension, or, if HQS deficiencies were not corrected within the required time frame, the PHA stopped housing assistance payments beginning no later than the first of the month following the correction period, or took prompt and vigorous action to enforce the family obligations for (check one):

PHA Response ✓ **At least 98% of cases sampled** ☐ **Less than 98% of cases sampled**

7. Expanding Housing Opportunities. (24 CFR 982.54(d)(5), 982.153(b)(3) and (b)(4), 982.301(a) and 983.301(b)(4) and (b)(12)).
Applies only to PHAs with jurisdiction in metropolitan FMR areas.
Check here if not applicable ☐

(a) The PHA has a written policy to encourage participation by owners of units outside areas of poverty or minority concentration which clearly delineates areas in its jurisdiction that the PHA considers areas of poverty or minority concentration, and which includes actions the PHA will take to encourage owner participation.
PHA Response **Yes** ✓ **No** ☐

(b) The PHA has documentation that shows that it took actions indicated in its written policy to encourage participation by owners outside areas of poverty and minority concentration.
PHA Response **Yes** ✓ **No** ☐

(c) The PHA has prepared maps that show various areas, both within and neighboring its jurisdiction, with housing opportunities outside areas of poverty and minority concentration; the PHA has assembled information about job opportunities, schools and services in these areas; and the PHA uses the maps and related information when briefing voucher holders.
PHA Response **Yes** ✓ **No** ☐

(d) The PHA's information packet for voucher holders contains either a list of owners who are willing to lease, or properties available for lease, under the voucher program, or a list of other organizations that will help families find units and the list includes properties or organizations that operate outside areas of poverty or minority concentration.
PHA Response **Yes** ✓ **No** ☐

(e) The PHA's information packet includes an explanation of how portability works and includes a list of neighboring PHAs with the name, address and telephone number of a portability contact person at each.
PHA Response **Yes** ✓ **No** ☐

(f) The PHA has analyzed whether voucher holders have experienced difficulties in finding housing outside areas of poverty or minority concentration and, where such difficulties were found, the PHA has considered whether it is appropriate to seek approval of exception payment standard amounts in any part of its jurisdiction and has sought HUD approval when necessary.
PHA Response **Yes** ✓ **No** ☐

8. Payment Standards. The PHA has adopted current payment standards for the voucher program by unit size for each FMR area in the PHA jurisdiction and, if applicable, for each PHA-designated part of an FMR area, which do not exceed 110 percent of the current applicable FMR and which are not less than 90 percent of the current FMR (unless a lower percent is approved by HUD). (24 CFR 982.503)

PHA Response **Yes** ✓ **No** ☐

Enter current FMRs and payment standards (PS)

0-BR FMR	1-BR FMR	2-BR FMR	3-BR FMR	4-BR FMR
435	487	640	819	920
PS 430	PS 529	PS 695	PS 888	PS 954

If the PHA has jurisdiction in more than one FMR area, and/or if the PHA has established separate payment standards for a PHA-designated part of an FMR area, attach similar FMR and payment standard comparisons for each FMR area and designated area.

9. Annual Reexaminations. The PHA completes a reexamination for each participating family at least every 12 months. (24 CFR 982.516)

PHA Response **Yes** ✓ **No** ☐

10. Correct Tenant Rent Calculations. The PHA correctly calculates tenant rent in the rental certificate program and the family rent to owner in the rental voucher program. (24 CFR 982, Subpart K)

PHA Response **Yes** ✓ **No** ☐

11. Precontract HQS Inspections. Each newly leased unit passed HQS inspection before the beginning date of the assisted lease and HAP contract. (24 CFR 982.305)

PHA Response **Yes** ✓ **No** ☐

12. Annual HQS Inspections. The PHA inspects each unit under contract at least annually. (24 CFR 982.405(a))

PHA Response **Yes** ✓ **No** ☐

13. Lease-Up. The PHA executes assistance contracts on behalf of eligible families for the number of units that has been under budget for at least one year.

PHA Response **Yes** ✓ **No** ☐

14a. Family Self-Sufficiency Enrollment. The PHA has enrolled families in FSS as required. (24 CFR 984.105)
Applies only to PHAs required to administer an FSS program.
Check here if not applicable ☐
PHA Response
a. Number of mandatory FSS slots (Count units funded under the FY 1992 FSS incentive awards and in FY 1993 and later through 10/20/1998. Exclude units funded in connection with Section 8 and Section 23 project-based contract terminations; public housing demolition, disposition and replacement; HUD multifamily property sales; prepaid or terminated mortgages under section 236 or section 221(d)(3); and Section 8 renewal funding. Subtract the number of families that successfully completed their contracts on or after 10/21/1998.) 100

or, Number of mandatory FSS slots under HUD-approved exception

b. Number of FSS families currently enrolled | 138

c. Portability: If you are the **initial** PHA, enter the number of families currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA | 0

Percent of FSS slots filled (b + c divided by a) | 100.00

14b. Percent of FSS Participants with Escrow Account Balances. The PHA has made progress in supporting family self-sufficiency as measured by the percent of currently enrolled FSS families with escrow account balances. (24 CFR 984.305)
Applies only to PHAs required to administer an FSS program.
Check here if not applicable ☐

PHA Response **Yes** ☑ **No** ☐ | 50%

Portability: If you are the **initial** PHA, enter the number of families with FSS escrow accounts currently enrolled in your FSS program, but who have moved under portability and whose Section 8 assistance is administered by another PHA

Deconcentration Bonus Indicator (Optional and only for PHAs with jurisdiction in metropolitan FMR areas).

The PHA is submitting with this certification data which show that:

(1) Half or more of all Section 8 families with children assisted by the PHA in its principal operating area resided in low poverty census tracts at the end of the last PHA FY;

(2) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area during the last PHA FY is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the last PHA FY;

or

(3) The percent of Section 8 mover families with children who moved to low poverty census tracts in the PHA's principal operating area over the last two PHA FYs is at least two percentage points higher than the percent of all Section 8 families with children who resided in low poverty census tracts at the end of the second to last PHA FY.

PHA Response **Yes** ☐ **No** ☑ **If yes, attach completed deconcentration bonus indicator addendum.**

I hereby certify that, to the best of my knowledge, the above responses under the Section 8 Management Assessment Program (SEMAP) are true and accurate for the PHA fiscal year indicated above. I also certify that, to my present knowledge, there is not evidence to indicate seriously deficient performance that casts doubt on the PHA's capacity to administer Section 8 rental assistance in accordance with Federal law and regulations.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Executive Director, signature

Date (mm/dd/yyyy) 02/23/2010

Chairperson, Board of Commissioners, signature

Date (mm/dd/yyyy) 02/23/2010

The PHA may include with its SEMAP certification any information bearing on the accuracy or completeness of the information used by the PHA in providing its certification.

SEMAP Certification - Addendum for Reporting Data for Deconcentration Bonus Indicator

Date (mm/dd/yyyy) _____

PHA Name _____

Principal Operating Area of PHA _____
(The geographic entity for which the Census tabulates data)

Special Instructions for State or regional PHAs. Complete a copy of this addendum for each metropolitan area or portion of a metropolitan area (i.e., principal operating areas) where the PHA has assisted 20 or more Section 8 families with children in the last completed PHA FY. HUD will rate the areas separately and the separate ratings will then be weighted by the number of assisted families with children in each area and averaged to determine bonus points.

1990 Census Poverty Rate of Principal Operating Area _____

Criteria to Obtain Deconcentration Indicator Bonus Points

To qualify for bonus points, a PHA must complete the requested information and answer yes for only one of the 3 criteria below. However, State and regional PHAs must always complete line 1) b for each metropolitan principal operating area.

1) _____ a. Number of Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY who live in low poverty census tracts. A low poverty census tract is a tract with a poverty rate at or below the overall poverty rate for the principal operating area of the PHA, or at or below 10% whichever is greater.

_____ b. Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY.

_____ c. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY (line a divided by line b).

Is line c 50% or more? **Yes** ☐ **No** ☐

2) _____ a. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last completed PHA FY.

_____ b. Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY.

_____ c. Number of Section 8 families with children who moved during the last completed PHA FY.

_____ d. Percent of all Section 8 mover families with children who moved to low poverty census tracts during the last PHA fiscal year (line b divided by line c).

Is line d at least two percentage points higher than line a? **Yes** ☐ **No** ☐

3) _____ a. Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the second to last completed PHA FY.

_____ b. Number of Section 8 families with children who moved to low poverty census tracts during the last two completed PHA FYs.

_____ c. Number of Section 8 families with children who moved during the last two completed PHA FYs.

_____ d. Percent of all Section 8 mover families with children who moved to low poverty census tracts over the last two completed PHA FYs (line b divided by line c).

Is line d at least two percentage points higher than line a? **Yes** ☐ **No** ☐

If one of the 3 criteria above is met, the PHA may be eligible for 5 bonus points.

See instructions above concerning bonus points for State and regional PHAs.

Agenda Item No. VII-

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Housing Authority Board

SUBJECT: 2009 Public Housing Assessment System

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommendation: Review and approve the submission of the 2009 Public Housing Assessment System Certification.

Background: On January 11, 2000, the U. S. Department of Housing and Urban Development (HUD) published 24 CFR Part 902 in the Federal Register requiring housing authorities to submit the Public Housing Assessment System (PHAS) Certification. The evaluation system designates public housing authorities as High Performers, Standard Performers or Troubled Performers, based on PHAS scores using a100-point scale. Housing authorities scoring 90 points and above are designated as High Performers. Housing authorities that score above 60 and below 90 are designated as Standard Performers.

Housing authorities scoring below 60 are designated as Troubled Performers under PHAS and will receive help from HUD's Troubled Agency Recovery Center to improve their performance and meet HUD's new standards. If a troubled housing authority fails to significantly improve its performance, HUD can refer the housing authority to a federal judge and create a receivership to take over management of the authority and remove its board members from office. HUD can also seek civil and criminal sanctions against housing authorities in the most serious cases.

Key elements of the PHAS Certification are:

Physical Inspections – 30% of score – HUD conducts the physical inspection of all public housing developments. Evaluations are based on objective, verifiable and uniform national standards designed to determine if public housing residents receive decent, safe and sanitary housing.

Financial Assessment – 30% of score – HUD will evaluate the financial condition of the Wichita Housing Authority (WHA), using generally accepted accounting principles. The WHA accountants will electronically submit standardized financial information to HUD prior to March 1, 2010.

Management Certification – 30% of score – HUD measures six management indicators. Components of those indicators include unit turnaround time, Capital Fund expenditures, completion time of maintenance work orders, annual inspections lease enforcement and resident self-sufficiency. Attached is the management review.

Resident Satisfaction and Services Assessment – 10% of score – HUD surveys public housing residents about their satisfaction with the developments in which they reside. Residents are asked their opinion of the quality of their dwelling units, resident organizations, program activities, safety and other issues. The 2007 HUD survey score will be carried over to the 2009 assessment, as HUD has not surveyed residents for the past two years.

Analysis: PHAS was in a transition year for 2008 due to the review of the federal proposed rule, and the Management Certification was not required. Wichita Housing Authority staff has completed the 2009 PHAS Management Certification, which will comprise 30% of the PHAS score. The attached Management

Certification reflects continued positive performance in modernization and work orders; those scores should continue to be rated high by HUD. The vacancy turnaround time has improved since 2007. In this case, the Public Housing Division made ready and leased 105 units in 2009 compared to 137 units in 2007. The high level of unit turnaround is attributed to the number of evictions for tenant non-compliance.

The final results of the Financial Assessment will not be known until the overall PHAS scores are released. The overall PHAS score is calculated based upon all indicators and graded by HUD's electronic systems.

Final 2007 PHAS Scores	
Physical Condition	**27** of 30
Financial Condition	**30** of 30
Management	**26** of 30
Resident Satisfaction	**9** of 10
Total	**92** of 100 – High Performer

Legal Considerations: None

Financial Considerations: None

Goal Impact: The submission of the Certification relates to the City Goal to Promote Economic Vitality and Affordable Living.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board review and approve the submission of the 2009 Public Housing Assessment System Certification for management indicators to the U. S. Department of Housing and Urban Development, adopt the resolution, and authorize the necessary signatures.

Attachments
PHAS Management Certification
Resolution

Management Assessment for Public Housing Agencies

Sub-Indicator 1: Vacant Unit Turnaround Time

ELEMENT	DESCRIPTION	AMOUNT
V12400	Total number of turnaround days.	10,684
V12500	Total number of vacancy days exempted for Capital Fund.	207
V12600	Total number of vacancy days exempted for other reasons.	2,715
V12700	Total number of vacant units turned around and lease in effect in the PHA's immediate past fiscal year.	105
V12800	Average number of calendar days units were in down time.	28.72
V12900	Average number of calendar days units were in make ready time.	15.05
V13000	Average number of calendar days units were in lease up time.	30.15
V13100	Average Unit Turnaround Days.	73.92

Sub-Indicator 2: Capital Fund

ELEMENT	DESCRIPTION	AMOUNT
CF10000	Do you have any open Capital Fund programs(e.g. CGP, HOPE VI)(Y/N)? Open = any program that does not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed.	yes
Component 1:	Unexpended Funds Over Three Federal Fiscal Years (FFYs) Old	
CF10050	Total funds authorized over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed.	$ 0.00
CF10100	Total funds expended over 3 FFYs old that do not have a pre-audit end date or that received a pre-audit end date during the fiscal year being assessed.	$ 0.00
CF10200	Unexpended funds to be recaptured (enter dollar amt).	$ 0.00
CF10300	Unexpended funds approved by HUD over 3 FFYs old (enter dollar amt).	$ 0.00
CF10400	Unexpended funds with time extensions due to reasons outside of PHA control (enter dollar amt).	$ 0.00

CF10500	**Adjusted total unexpended funds.**	$ 0.00
Component 2:	**Timeliness of Fund Obligation**	
CF11100	**Total funds authorized for grants over 2 FFYs old.**	$ 0.00
CF11200	**Total funds obligated over 2 FFYs old.**	$ 0.00
CF11300	**Unobligated funds approved by HUD over 2 FFYs old (enter dollar amt).**	$ 0.00
CF11400	**Unobligated funds with time extensions due to reasons outside of PHA control (enter dollar amt).**	$ 0.00
CF11500	**Adjusted total unobligated funds.**	$ 0.00
Component 3:	**Adequacy of Contract Administration**	
CF11700	**The date of last HUD/Army Corps of Engineers on-site inspection and/or audit related to contract administration (include A133 audit).**	09/02/1993 (mm/dd/yyyy)
CF11800	**The number of findings related to contract administration.**	0
CF11900	**The number of findings related to contract administration that have been corrected by the PHA.**	0
CF12000	**The number of findings related to contract administration that the PHA is in the process of correcting.**	0
Component 4:	**Quality of the Physical Work**	
CF12200	**Date of last HUD/Army Corps of Engineers on-site inspection and/or audit related to quality of the physical work.**	09/02/1993 (mm/dd/yyyy)
CF12300	**The number of findings related to the quality of the physical work.**	0
CF12400	**The number of findings related to the quality of the physical work that have been corrected by the PHA.**	0
CF12500	**The number of findings related to the quality of the physical work that the PHA is in the process of correcting.**	0
Component 5:	**Budget Controls**	
CF12700	**Total amount of Capital Funds expended during the PHA fiscal year being assessed.**	$ 849,764.99
CF12800	**The amount of Capital Funds expended on approved work items not subject to budget revisions during the PHA fiscal year being assessed.**	$ 849,764.99

CF12900	The amount of Capital Funds expended under budget revisions with prior HUD approval during the PHA fiscal year being assessed.	$ 0.00
CF13000	The amount of Capital Funds expended under budget revisions not requiring prior HUD approval during the PHA fiscal year being assessed.	$ 0.00

Sub-Indicator 3: Work Orders

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	Emergency Work Orders	
W10000	Total number of emergency work orders.	320
W10100	Total number of emergency work orders completed / abated within 24 hours.	320
W10200	Percentage of emergency work orders completed / abated within 24 hours.	100.00 %
Component 2:	Non-Emergency Work Orders	
W10500	Total number of non-emergency work orders.	6,107
W10600	Total number of calendar days it took to complete non-emergency work orders.	25,601
W10700	Average number of days PHA has reduced the time it takes to complete non-emergency work orders over the past three years.	
W10800	Average completion days.	4.19

Sub-Indicator 4: Annual Inspection of Dwelling Units and Systems

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	Annual Inspection of Dwelling Units	
A10000	The total number of ACC units.	578
A10100	The sum of units exempted where the PHA made two documented attempts to inspect and is enforcing the lease.	0
A10200	Vacant units exempted for Capital Fund.	0
A10300	Vacant units exempted for other reasons.	0
A10400	Total number of units inspected using the Uniform Physical Condition Standards (UPCS).	578

A10550	Total number of units inspected that did not require repairs.	195
A10600	The number of units where necessary repairs were completed to comply with UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program.	383
A10700	Adjusted units available.	578
A10800	Percent of units inspected by PHA.	100.00 %
Component 2:	Annual Inspection of Systems Including Common Areas and Non-Dwelling Space	
A11100	Total number of projects.	4
A11200	Total number of projects exempted from the inspection of systems.	0
A11300	The total number of projects where all systems were inspected in accordance with the UPCS.	4
A11400	Total number of buildings.	378
A11500	Total number of buildings exempted from the inspection of systems.	0
A11600	Total number of buildings where all systems were inspected in accordance with the UPCS.	378
A11700	The number of buildings and projects where necessary repairs were completed to comply with UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program.	4
A11800	Percentage of projects inspected.	100.00 %
A11900	Percentage of buildings inspected.	100.00

Sub-Indicator 5: Security

ELEMENT	DESCRIPTION	AMOUNT
Component 1:	Tracking and Reporting Crime-Related Problems	
S10000	The date that the Board adopted current policies to track crime and crime-related problems.	09/19/1996 (mm/dd/yyyy)
S10100	The date that the PHA implemented the current procedures to track crime and crime-related problems.	09/19/1996 (mm/dd/yyyy)
S10200	The date that the PHA implemented a current cooperative system for tracking and reporting crime to local police authorities.	09/19/1996 (mm/dd/yyyy)

S10300	The number of crimes that the PHA can document it reported to local police authorities.	7
S10400	Percentage of developments where PHA can document it tracks crime and crime-related problems.	100.00 %
Component 2:	Screening of Applicants	
S10500	The date the Board adopted current screening policies that reflect the applicable criteria.	09/19/1996 (mm/dd/yyyy)
S10600	The date the PHA implemented current screening procedures that reflect the applicable criteria.	09/19/1996 (mm/dd/yyyy)
S10700	PHA can document that current screening procedures result in successfully denying admission to applicants who meet the applicable criteria (enter Yes or No).	yes
S10800	The total number of applicants denied who met the applicable criteria	5
Component 3:	Lease Enforcement	
S10900	The date the Board adopted current eviction policies that reflect the applicable criteria.	09/19/1996 (mm/dd/yyyy)
S11000	The date the PHA implemented current eviction procedures that reflect the applicable criteria.	09/19/1996 (mm/dd/yyyy)
S11100	PHA can document that eviction screening procedures resulted in the evicting of residents who meet the applicable criteria (enter Yes or No).	yes
S11200	The total number of evictions as a result of the applicable criteria.	5
Component 4:	Drug Prevention and/or Crime Reduction Program Goals	
S11350	The number of HUD-funded drug prevention and/or crime reduction programs.	0
S11450	The number of non HUD-funded drug prevention and/or crime reduction programs that the PHA requests to be assessed.	1
S11550	The number of documented program goals that are related to drug-prevention and/or crime reduction.	1
S11600	The number of goals the PHA can document it met under the implementation plans(s) for any and all of these programs.	1
S11700	Percentage of goals that the PHA can document it met under the implementation plans(s) for any and all of these programs.	100.00 %

Sub-Indicator 6: Economic Self-Sufficiency

ELEMENT	DESCRIPTION	AMOUNT
E10000	The number of HUD-funded economic self-sufficiency programs.	2

E10100	**The number of non HUD-funded economic self-sufficiency programs that the PHA requests to be assessed.**	0
E10200	**The number of documented program goals that are related to economic self-sufficiency.**	5
E10300	**The number of goals the PHA can document it met under the implementation plan(s) for any and all of these programs.**	5
E10400	**Percentage of goals that the PHA can document it met under the implementation plan(s) for any and all of these programs.**	100.00 %

RESOLUTION NO. H-10-01

A RESOLUTION CERTIFYING FY 2009 PHAS

Whereas On January 11, 2000, the Department of Housing and Urban Development (HUD) published 24 CFR Part 902 in the Federal register requiring housing authorities to submit the Public Housing Assessment System (PHAS) Certification;

Whereas The PHAS report requires that the Executive Director certifies the report electronically;

Whereas The City of Wichita Housing Authority has responded to the HUD regulations by completing the Public Housing Assessment System Certification; and

Whereas The Housing Authority Board authorizes the submission of the Public Housing Assessment System Program Certification for FY 2009 and hereby agrees that the City of Wichita Housing Authority will maintain all documentation for three years verifying all certified indicators for HUD on-site review.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WICHITA HOUSING AUTHORITY AS FOLLOWS:

Acting on behalf of the City of Wichita Housing Authority Board, as its Chairperson, I certify the Public Housing Assessment System Certification.

Adopted this day, February 23, 2010.

WICHITA HOUSING AUTHORITY BOARD

Mayor Carl Brewer, Chairman	ATTEST: Karen Sublett, City Clerk

Agenda Item No. VII-

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Housing Authority Board

SUBJECT: Revisions of the Capital Fund Budgets for 2008, 2009 and American Recovery and Reinvestment Act of 2009

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommendation: Approve revisions of the 2008 Annual, 2009 Annual and the 2009 Stimulus-funded Capital Fund budgets.

Background: The U.S. Department of Housing and Urban Development (HUD) provides modernization funds to public housing authorities based on a formula which considers characteristics of each individual authority. The Wichita Housing Authority (WHA) has received such funds since 1982. Capital Fund Program (CFP) funds are used to update or rehabilitate rental units and to purchase software and hardware for program operations. HUD regulations allow a housing authority to revise its approved annual budget when changes to the budget are required due to construction and administrative cost changes, HUD Notices, disasters and emergencies outside the control of the housing authority.

Analysis: The 2008 CFP allocation was $999,444. This item will revise the 2008 budget to add expenditures for replacement of 50 air-conditioning units in single family properties and to make the appropriate line item adjustments to close the grant. The 2009 CFP allocation was $1,009,696. This item will revise this grant to replace 50 air-conditioning units in the single-family dwellings and increase the budget for major renovations to the seven-story, 86-unit Greenway Manor apartment complex.

In 2009 HUD also awarded a Stimulus Capital Fund Grant of $1,265,098 from the American Recovery and Reinvestment Act of 2009. This agenda item proposes revisions to the Stimulus budget for replacement of 400 furnace and 300 air-conditioning units in single family residences and in the WHA's garden apartments (Rosa Gragg and Bernice Hutcherson).

Legal Considerations: All of these revisions are allowable in the present Capital Fund Five-Year Plan.

Financial Considerations: No local tax funds will be required for the Capital Fund Program.

Goal Impact: The Capital Fund Program contributes to the City Goal of Economic Vitality and Affordable Living.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board approve revisions of the 2008 Annual, 2009 Annual and the 2009 Stimulus-funded Capital Fund budgets.

Attachments: Capital Fund Annual Statements

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program
OMB No. 2577-0226

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Expires 4/30/2011

Part I: Summary		
PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450108 Replacement Housing Factor Grant No: n/a Date of CFFP: n/a	FFY of Grant: 2008 FFY of Grant Approval: 2008

Type of Grant
☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☒ Revised Annual Statement (revision no: 2)
☐ Performance and Evaluation Report for Period Ending: ☐ Final Performance and Evaluation Report

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) 3	$199,000	$199,000		
3	1408 Management Improvements	15,000	5,500		
4	1410 Administration (may not exceed 10% of line 21)	99,000	99,000		
5	1411 Audit	5,000	0		
6	1415 Liquidated Damages				
7	1430 Fees and Costs	126,000	142,444		
8	1440 Site Acquisition				
9	1450 Site Improvement	125,000	25,500		
10	1460 Dwelling Structures	305,000	207,000		
11	1465.1 Dwelling Equipment—Nonexpendable	26,000	102,000		
12	1470 Non-dwelling Structures	20,000			
13	1475 Non-dwelling Equipment	35,000	1,000		
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities		217,000		

18a	1501 Collateralization or Debt Service paid by the PHA				

18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	44,444	1,000		
20	Amount of Annual Grant:: (sum of lines 2 - 19)	$999,444	$999,444		
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities		$217,000		
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures		$204,000		

Signature of Executive Director, Mary K. Vaughn	Date 2/23/10	Signature of Public Housing Director, Tom Byler	Date 2/23/10

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program
OMB No. 2577-0226

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Expires 4/30/2011

Part I: Summary		
PHA Name: City of Wichita Housing Authority	Grant Type and Number Capital Fund Program Grant No: KS16P00450109 Replacement Housing Factor Grant No: n/a Date of CFFP: n/a	FFY of Grant: 2009 FFY of Grant Approval: 2009

Type of Grant
☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☒ Revised Annual Statement (revision no: 1)
☐ Performance and Evaluation Report for Period Ending: ☐ Final Performance and Evaluation Report

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) 3	$200,000	$200,000		
3	1408 Management Improvements	15,000	10,000		
4	1410 Administration (may not exceed 10% of line 21)	100,000	100,000		
5	1411 Audit	5,000	5,000		
6	1415 Liquidated Damages				
7	1430 Fees and Costs	130,000	126,000		
8	1440 Site Acquisition				
9	1450 Site Improvement	128,000	24,696		
10	1460 Dwelling Structures	268,252	424,000		
11	1465.1 Dwelling Equipment—Nonexpendable	69,000	110,000		
12	1470 Non-dwelling Structures	10,000	5,000		
13	1475 Non-dwelling Equipment	35,000	5,000		
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs	20,000	0		
17	1499 Development Activities				
18a	1501 Collateralization or Debt Service paid by the PHA				

18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)	29,444	0		
20	Amount of Annual Grant:: (sum of lines 2 - 19)	$1,009,696	$1,009,696		
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities		$25,000		
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures		$200,000		

Signature of Executive Director, Mary K. Vaughn	Date 2/23/10	Signature of Public Housing Director, Tom Byler	Date 2/23/10

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program
OMB No. 2577-0226

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
Expires 4/30/2011

Part I: Summary		
PHA Name: City of Wichita Housing Authority	Grant Type and Number - ARRA Capital Fund Program Grant No: KS16S00450109 Replacement Housing Factor Grant No: n/a Date of CFFP: n/a	FFY of Grant: 2009 FFY of Grant Approval: 2009

Type of Grant
☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☒ Revised Annual Statement (revision no: 1)
☐ Performance and Evaluation Report for Period Ending: ☐ Final Performance and Evaluation Report

Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost	
		Original	Revised	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) 3				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)	$126,000	$25,098		
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs	40,098	20,000		
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable	1,099,000	1,220,000		
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities				

18a	1501 Collateralization or Debt Service paid by the PHA				

18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	$1,265,098	$1,265,098		
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures	$1,099,000	$1,220,000		

Signature of Executive Director, Mary K. Vaughn Date 2/23/10	Signature of Public Housing Director, Tom Byler Date 2/23/10

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement No. 1 – Maintenance of Telecommunication System

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: The Wichita Airport Authority (WAA) has an existing agreement with Comm Link for the maintenance and service of the telecommunication system through March 31, 2010. Construction of the major portions of the Air Capital Terminal 3 (ACT 3) project is estimated to be completed in the first half of 2013. In an effort to provide for continuous maintenance of the telecommunication system, it is recommended that the current agreement with Comm Link be extended.

Analysis: A supplemental agreement is provided, which extends the agreement from April 1, 2010 through March 31, 2013. In the event the procurement for a replacement operator has not been completed by that time, the supplement includes a provision, which allows for continuation on a month-to-month basis. The long-term interests of the public are best served by entering into a supplemental agreement with Comm Link. The major obstacle in undertaking a competitive public procurement at this time is there are many uncertainties and unknowns associated with the design of the future terminal and its impact on telecommunications facilities on the campus. These uncertainties and unknowns would likely have a negative and detrimental effect on price proposals if the Airport were to conduct a solicitation for a new contractor at this time. Therefore, it is reasonable and appropriate to continue with the same contractor, under the same contractual conditions, with a known maintenance fee, until nearing the time when the terminal is completed. At that time a competitive maintenance and service provider selection would be initiated.

Financial Considerations: The supplemental agreement term is for a period of three years and sets forth a flat-rate annual management fee of $59,100 payable by the WAA on a monthly basis. The funds for the maintenance agreement are included in the operating budget.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through providing services which enhance the experience of airport customers.

Legal Considerations: The supplemental agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement, and authorize the necessary signatures.

Attachments: Comm Link Supplemental Agreement No. 1

SUPPLEMENTAL AGREEMENT NO. 1

BY AND BETWEEN

THE WICHITA AIRPORT AUTHORITY

AND

COMM LINK, INC.

Maintenance of Telecommunication System
Wichita Mid-Continent Airport

THIS SUPPLEMENTAL AGREEMENT No. 1, made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "OWNER", and COMM LINK, INC., hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated November 2, 2004 for the purpose of maintaining and servicing the telecommunication system located at Wichita Mid-Continent Airport; and

WHEREAS, the current Agreement will expire on March 31, 2010; and

WHEREAS, the Owner and Contractor are now desirous of entering into this Supplemental Agreement No. 1 for the purpose of extending the term of the Agreement; and

WHEREAS, the completion of the new terminal is unknown at this time, necessitating a short-term agreement extension with the Contractor.

NOW, THEREFORE, the parties hereto further agree as follows:

1.

Exhibit A, Paragraph 3.a. Financial Arrangements - shall be superseded by the following language, effective April 1, 2010:

a. Annual maintenance agreement for the phone switch and phone mail system at a cost of $59,100 per year during the term of this Supplemental Agreement. By execution of this contract, the Owner agrees to the terms and conditions included in the Maintenance Agreement incorporated as Exhibit A-2 without the need to enter into a separate agreement. Schedule A

will be reviewed annually and adjusted as need and agreed by Contractor and Owner. Payments shall be made monthly in advance upon invoicing from Contractor.

2.

Exhibit A-2, Paragraph 1, Term of Agreement - shall be superseded by the following language:

The term of this Supplemental Agreement No. 1 shall be for a three-year period commencing April 1, 2010 and terminating March 31, 2013.

It is acknowledged that the process and timeline for selecting a contractor to maintain the Airport Telecommunication System has not been determined at this time, and remains subject to final terminal design and construction. The term of the extension shall be through March 31, 2013 and then may be automatically renewed on a month-to-month basis, commencing April 1, 2013, until such time as the process for competitive public selection of a maintenance contractor for the new Airport Telecommunication System has been completed. Throughout the term of this Supplemental Agreement, either party may terminate the Agreement upon providing a thirty-day written notice to the other party.

3.

Exhibit A-2, Paragraph 2, Price and Payment Terms - shall be superseded by the following:

Owner shall pay to Contractor $59,100 (plus any applicable taxes), in advance, or as specified in the attached Schedule A ("Exceptions") for Contractor's performance of maintenance obligations set forth herein. Contractor shall be under no obligation to perform maintenance duties hereunder until payment if received by Contractor.

4.

Exhibit A-2, Schedule "A"2, Exceptions, Paragraph 2 - shall be superseded by the following language:

Payment may be made in monthly installments of $4,925.00.

5.

Other Terms - It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement, as amended, shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President
"Owner"

By _____
Victor D. White, Director of Airports

ATTEST:

COMM LINK, INC.
WICHITA, KANSAS

By _____

By _____
"Contractor"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Airport Authority

SUBJECT: Airport Airline Use and Lease Agreement – Supplemental Agreements

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Supplemental Agreements.

Background: The Wichita Airport Authority currently has a uniform lease and use agreement with eleven (11) commercial passenger airlines serving Wichita Mid-Continent Airport. The airlines have requested that new affiliate language be added to the uniform agreement, which will allow related and wholly-owned subsidiary airlines to operate under one agreement.

Analysis: It is the normal practice of the Wichita Airport Authority to enter into contractual agreements with the commercial passenger airlines in order to establish a business relationship and a basis for rentals, fees, and charges. Supplemental agreements have been prepared to include the requested affiliate language and to extend the agreements by one year to December 31, 2010. The affiliate language results in a need for six (6) agreements to replace the existing eleven (11). This has no impact on the level of airline service provided to the Airport.

Financial Considerations: Under the contract methodology, commercial passenger airlines serving Wichita Mid-Continent Airport will pay for their proportionate share of the maintenance, operation, and debt service associated with the airfield and terminal building. The ensuing rates and charges are determined pursuant to USDOT Policy, Federal Code, U. S. Supreme Court rulings, and negotiations with the airlines. The estimated annual revenue for 2010 from these agreements is approximately $4.4 million. The addition of the affiliate language does not have a financial impact to the Authority.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through extending and modifying agreements in cooperation with the airlines, thereby continuing airline operations and service in Wichita.

Legal Considerations: The Law Department has approved the Supplemental Agreements as to form.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreements, and authorize the necessary signatures.

Attachment: AirTran Airways Supplemental Agreement No. 7
American Airlines Supplemental Agreement No. 8
Continental Airlines Supplemental Agreement No. 1
Delta Air Lines Supplemental Agreement No. 1
Frontier Airlines – Supplemental Agreement No. 3
United Airlines Supplemental Agreement No. 8

SUPPLEMENTAL AGREEMENT NO. 7

AIRLINE AIRPORT USE AND LEASE AGREEMENT
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AIRTRAN AIRWAYS, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 7, made and entered into this February 23, 2010 by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AIRTRAN AIRWAYS, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated May 7, 2002, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport; and

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. 1 dated May 7, 2002, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; and Supplemental Agreement No. 2 dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. 3 dated December 21, 2004, for the purpose of extending the term of the Agreement and modifying the exhibits, Supplemental Agreement No. 4 dated January 9, 2007 which extended the term of the Agreement, addressed the relocation of the leased premises and modified the exhibits; Supplemental Agreement No. 5 dated December 11, 2007 which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. 6 dated January 13, 2009, which extended the term of the Agreement and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 7 for the purpose of modifying certain language, extending the term of the Agreement and modifying exhibits within the Agreement;

NOW, THEREFORE, the parties further agree as follows:

1.

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to and from Airport, together with the Host Airlines, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any

Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and

charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit.

In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as

reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

9.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By _____
Victor D. White, Director of Airports

ATTEST:

AIR TRAN AIRWAYS, INC.

By _____

By_____
"Airline"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

SUPPLEMENTAL AGREEMENT NO. 8

AIRLINE AIRPORT USE AND LEASE AGREEMENT
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

AMERICAN AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 8, made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AMERICAN AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. 1 dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. 2 dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; Supplemental Agreement No. 3 dated October 19, 2004, which reduced the leased premises; Supplemental Agreement No. 4 dated December 21, 2004, which extended the term of the agreement and modified exhibits within the Agreement; Supplemental Agreement No. 5 dated January 9, 2007 which extended the term of the agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 6 dated December 11, 2007 which extended the term and modified exhibits within the Agreement; and Supplemental Agreement No. 7 dated January 13, 2009 which extended the term and modified exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 8 for the purpose of the purpose of modifying certain language, extending the term of the Agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to and from Airport, together with the Host Airline, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

As provided in Section 3.1.B, Authority and Airline may, from time to time, by written agreement, add space to or delete space from the Airline Premises.

Authority does hereby lease to Airline the following areas: ticket counter, office, bag makeup, holdroom and operations space as reflected on Exhibits "B-1", dated February 11, 2010, attached hereto and incorporated herein, which shall be retroactive to January 1, 2010.

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement, as previously supplemented.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that

provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an

occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s)

and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

9.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By _____
Victor D. White, Director of Airports

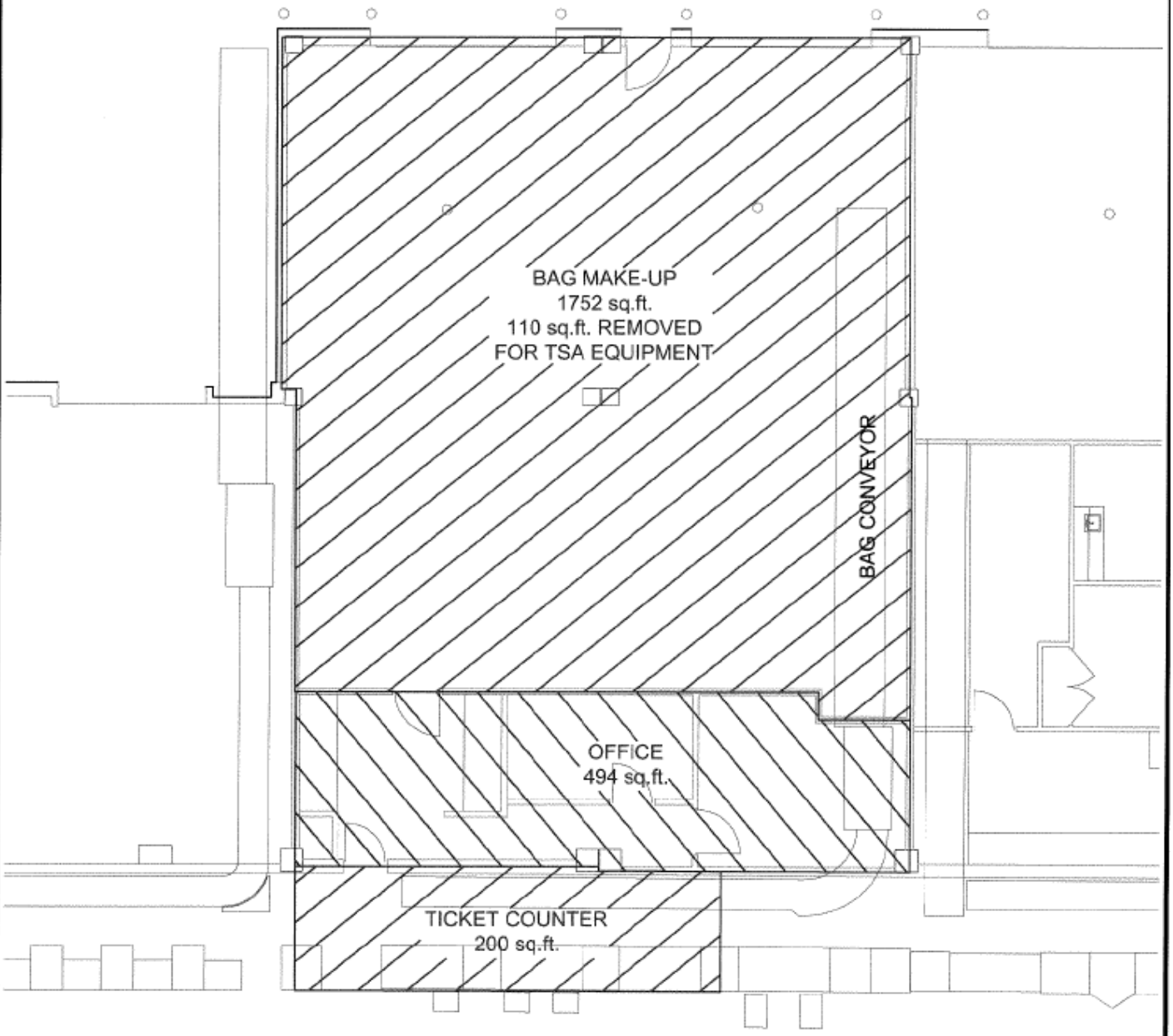
ATTEST:

AMERICAN AIRLINES, INC.

By _____

By_____
"Airline"

APPROVED AS TO FORM: _____ Date: _____
Director of Law



AMERICAN AIRLINES

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WICHITA MID-CONTINENT AIRPORT

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

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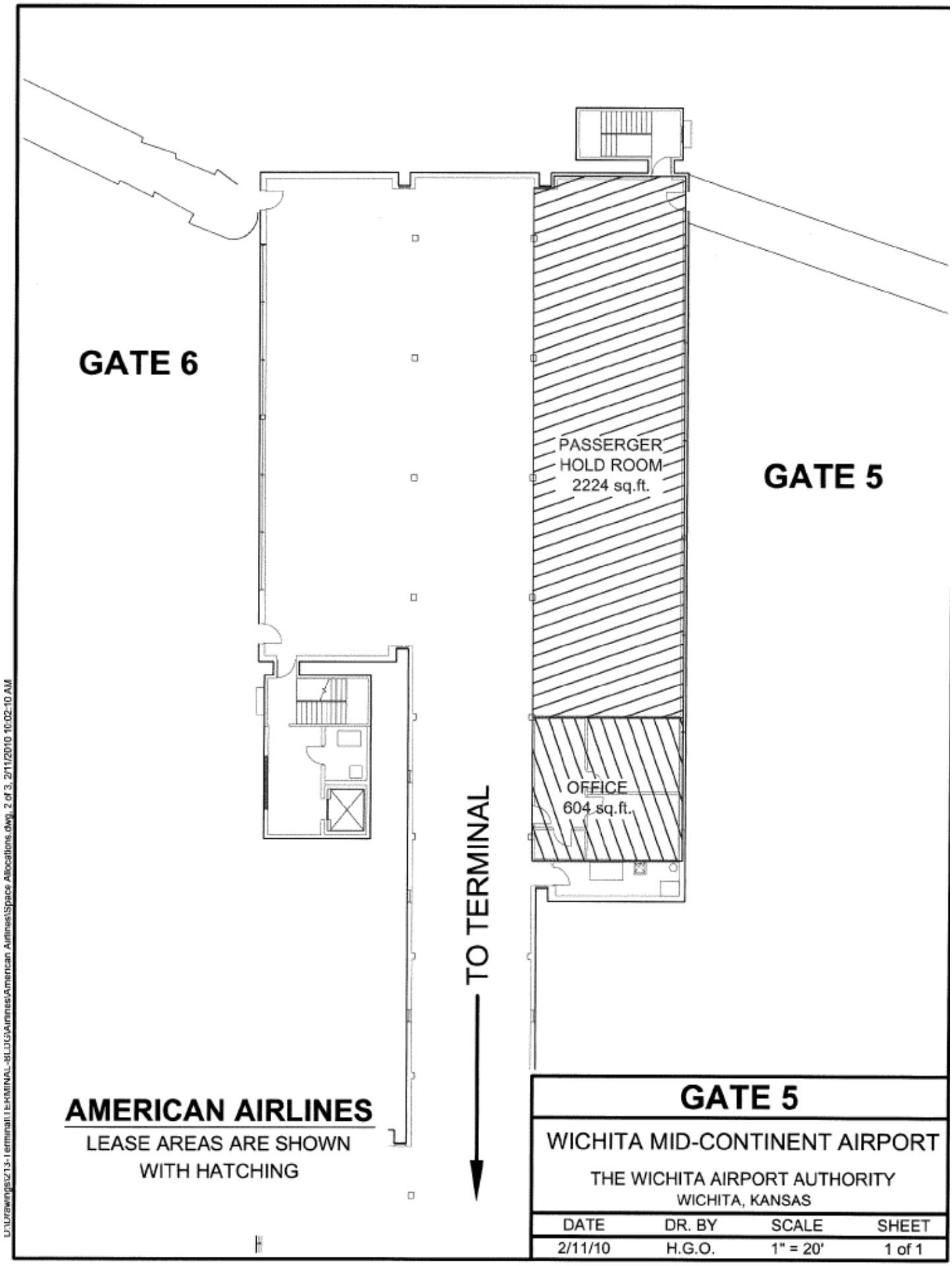
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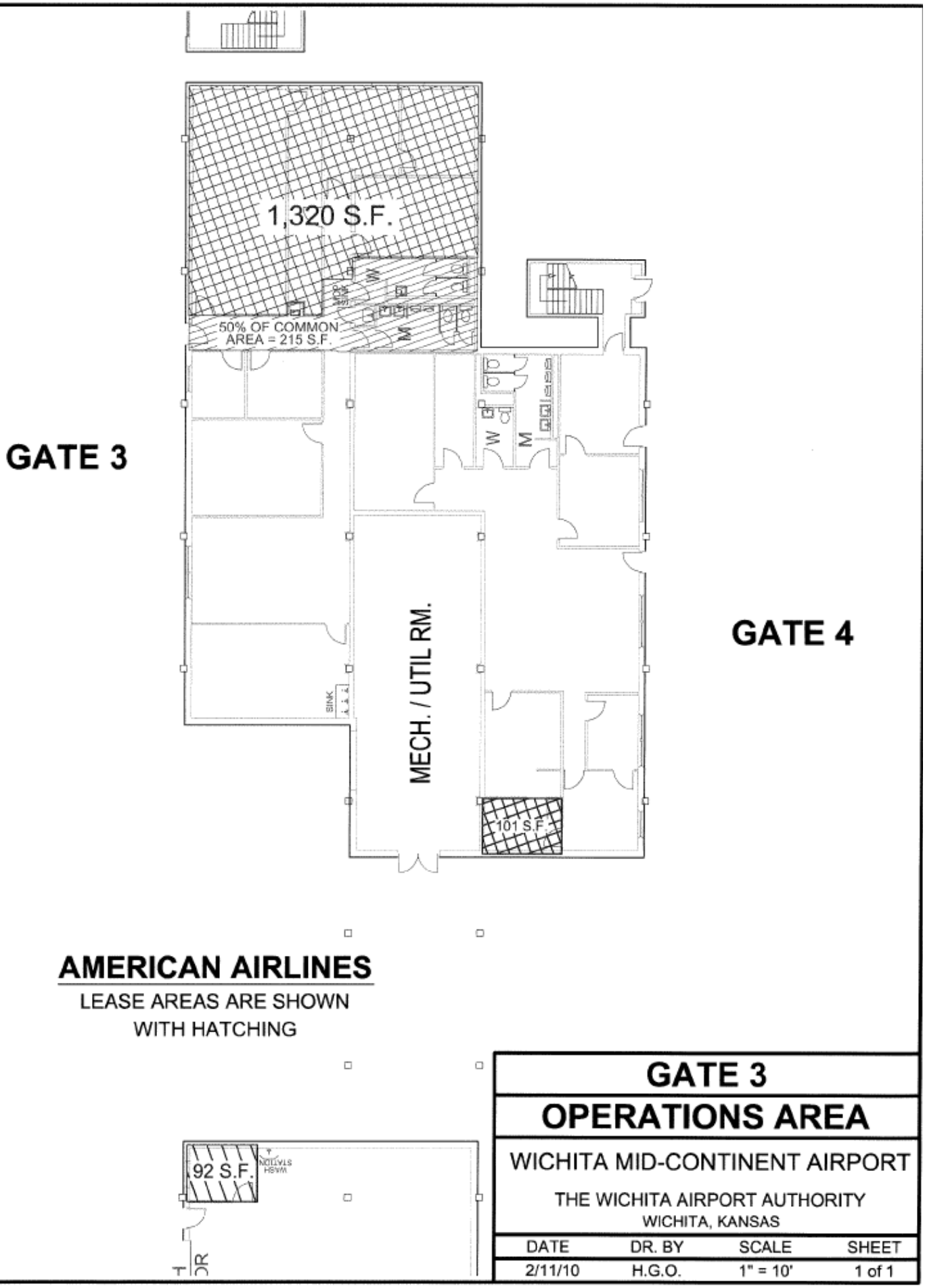
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SUPPLEMENTAL AGREEMENT NO. 1

AIRLINE AIRPORT USE AND LEASE AGREEMENT

BETWEEN

WICHITA AIRPORT AUTHORITY

AND

CONTINENTAL AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 1, made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and CONTINENTAL AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated October 27, 2009 for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 1 for the purpose of modifying certain language, extending the term of the Agreement, and modifying exhibits within the agreement;

NOW, THEREFORE, the parties further agree as follows:

1.

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to

and from Airport, together with the Host Airline, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses

incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to

Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

9.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By:_____
Karen Sublett, City Clerk

By:_____
Carl Brewer, President
Authority"

By _____
Victor D. White, Director of Airports

ATTEST:

CONTINENTAL AIRLINES, INC.

By:_____

Title:_____

By:_____

Title:_____
"Airline"

APPROVED AS TO FORM:_____Date:_____
Director of Law

SUPPLEMENTAL AGREEMENT NO. 1

AIRLINE AIRPORT USE AND LEASE AGREEMENT

BETWEEN

WICHITA AIRPORT AUTHORITY

AND

DELTA AIR LINES

THIS SUPPLEMENTAL AGREEMENT NO. 1 made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and DELTA AIR LINES, hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated June 16, 2009 for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 1 for the purpose of modifying certain language, extending the term of the Agreement, and modifying exhibits within the agreement;

NOW, THEREFORE, the parties further agree as follows:

1.

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate

federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to and from Airport, together with the Host Airline, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

As provided in Section 3.1.B, Authority and Airline may, from time to time, by written agreement, add space to or delete space from the Airline Premises. The Revised Exhibit B-1, dated June 4, 2009 for this respective space, shall be superseded, and the February 9, 2010 exhibit shall be in effect.

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be

considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such

adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

9.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By:_____
Karen Sublett, City Clerk

By:_____
Carl Brewer, President
Authority"

By _____
Victor D. White, Director of Airports

ATTEST:

DELTA AIR LINES

By:_____

Title:_____

By:_____

Title:_____
"Airline"

APPROVED AS TO FORM:_____Date:_____
Director of Law

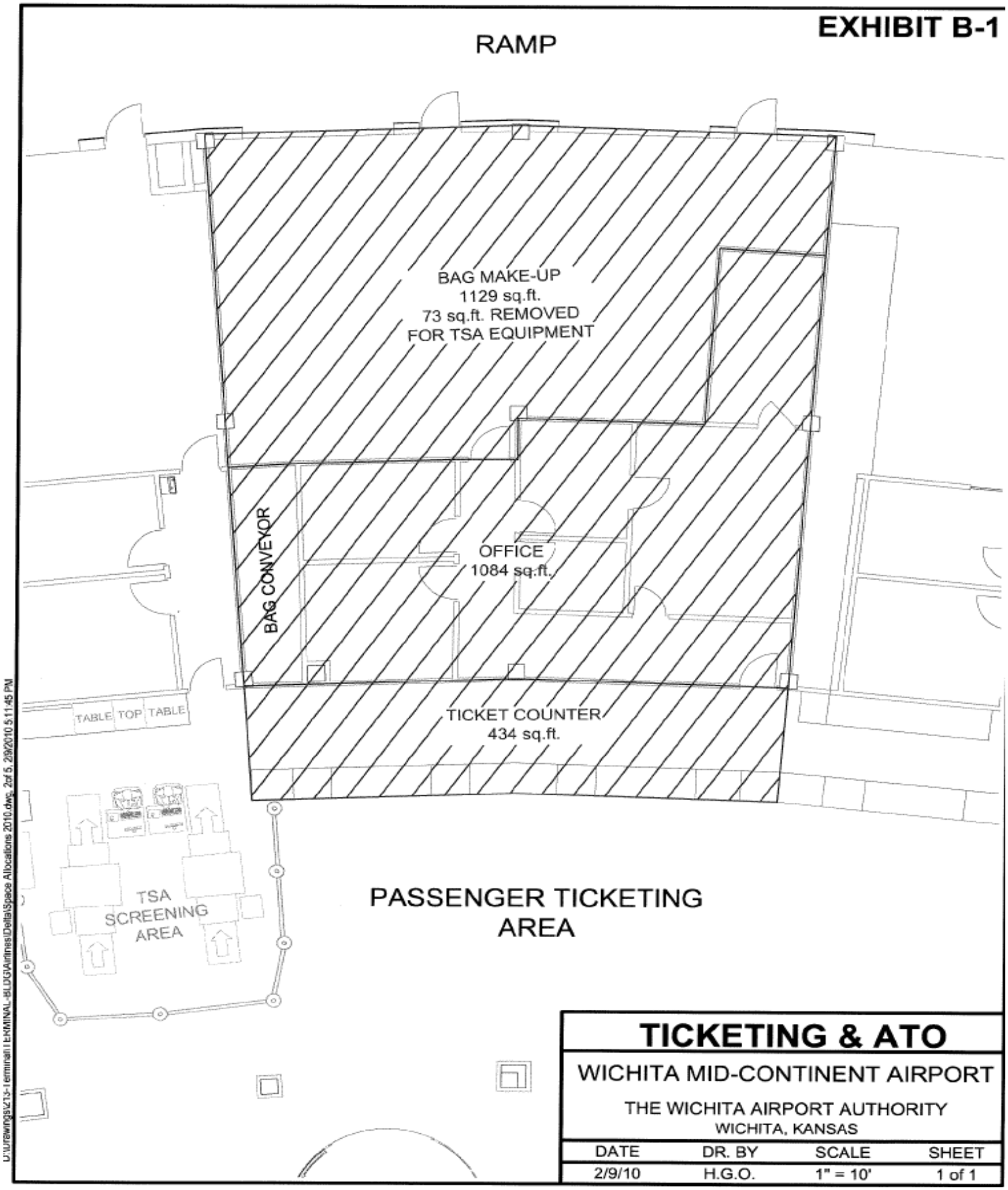
EXHIBIT B-1
RAMP
BAG MAKE-UP
1129 sq.ft.
73 sq.ft. REMOVED
FOR TSA EQUIPMENT
BAG CONVEYOR
OFFICE
1084 sq.ft.
TICKET COUNTER
434 sq.ft.
TABLE TOP TABLE
TSA
SCREENING
AREA
PASSENGER TICKETING
AREA
TICKETING & ATO
WICHITA MID-CONTINENT AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
SHEET
2/9/10
H.G.O.
1" = 10'
1 of 1

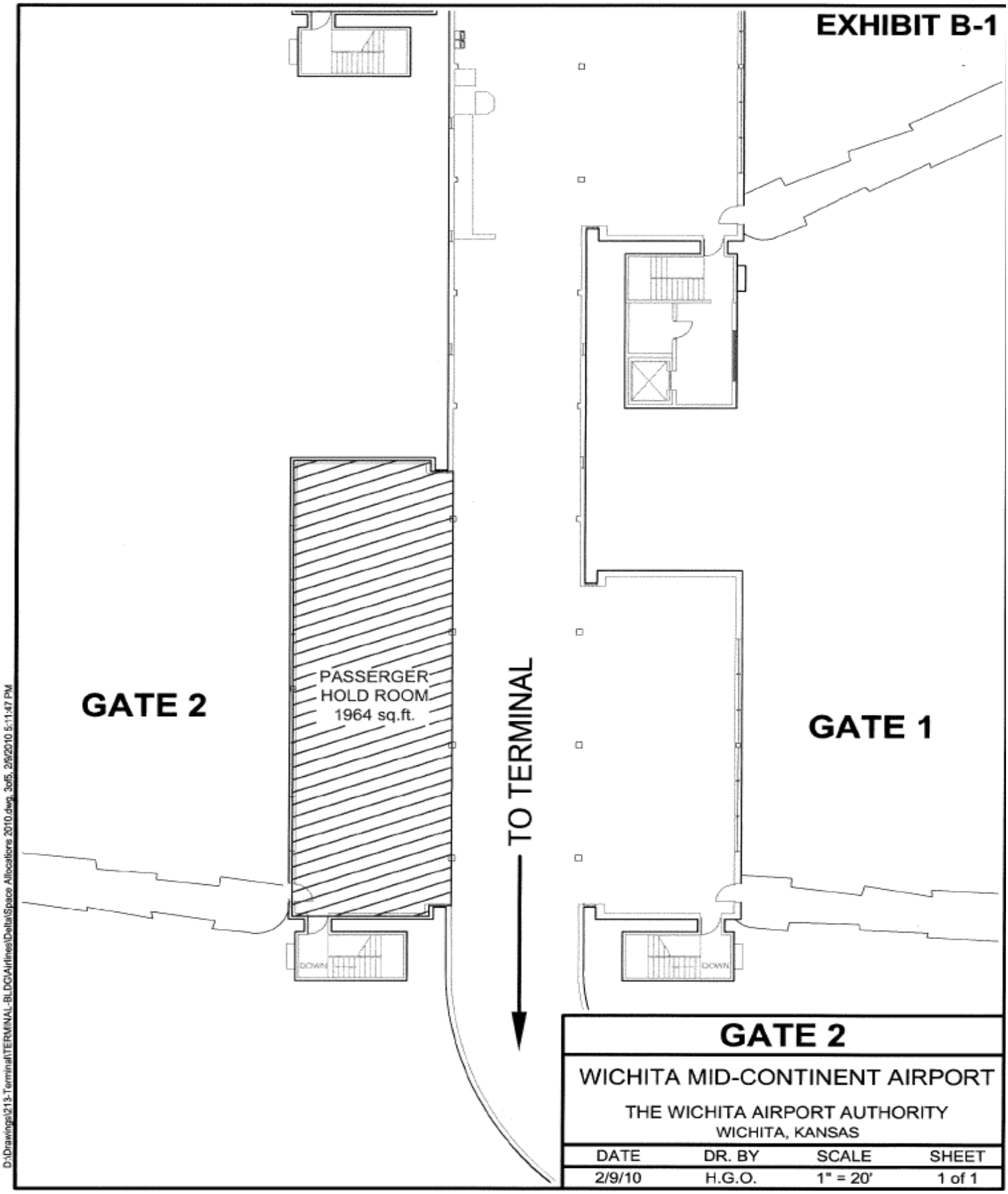
EXHIBIT B-1
GATE 2
PASSERGER
HOLD ROOM
1964 sq.ft.
TO TERMINAL
GATE 1
DOWN
DOWN
GATE 2
WICHITA MID-CONTINENT AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
SHEET
2/9/10
H.G.O.
1" = 20'
1 of 1
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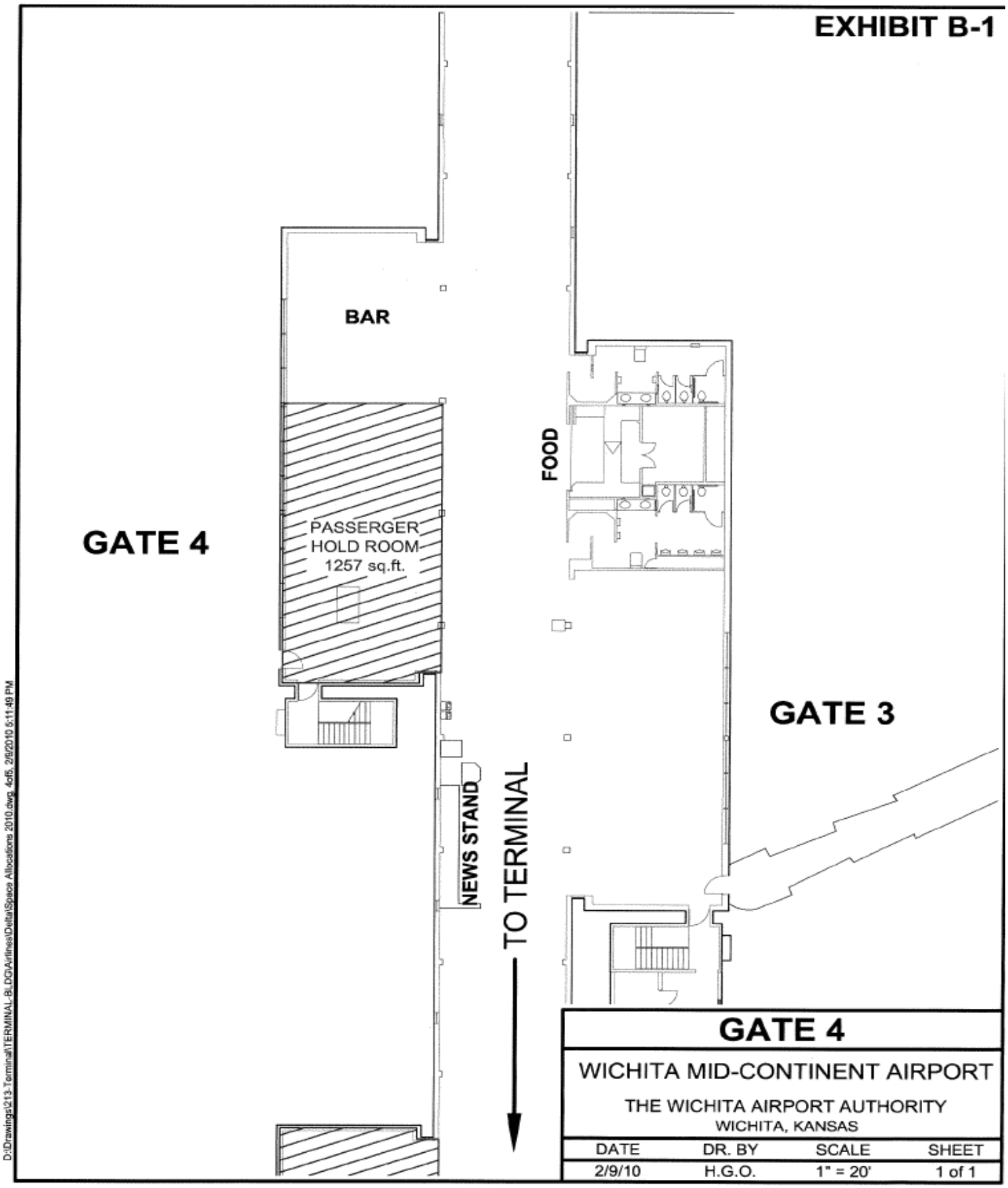
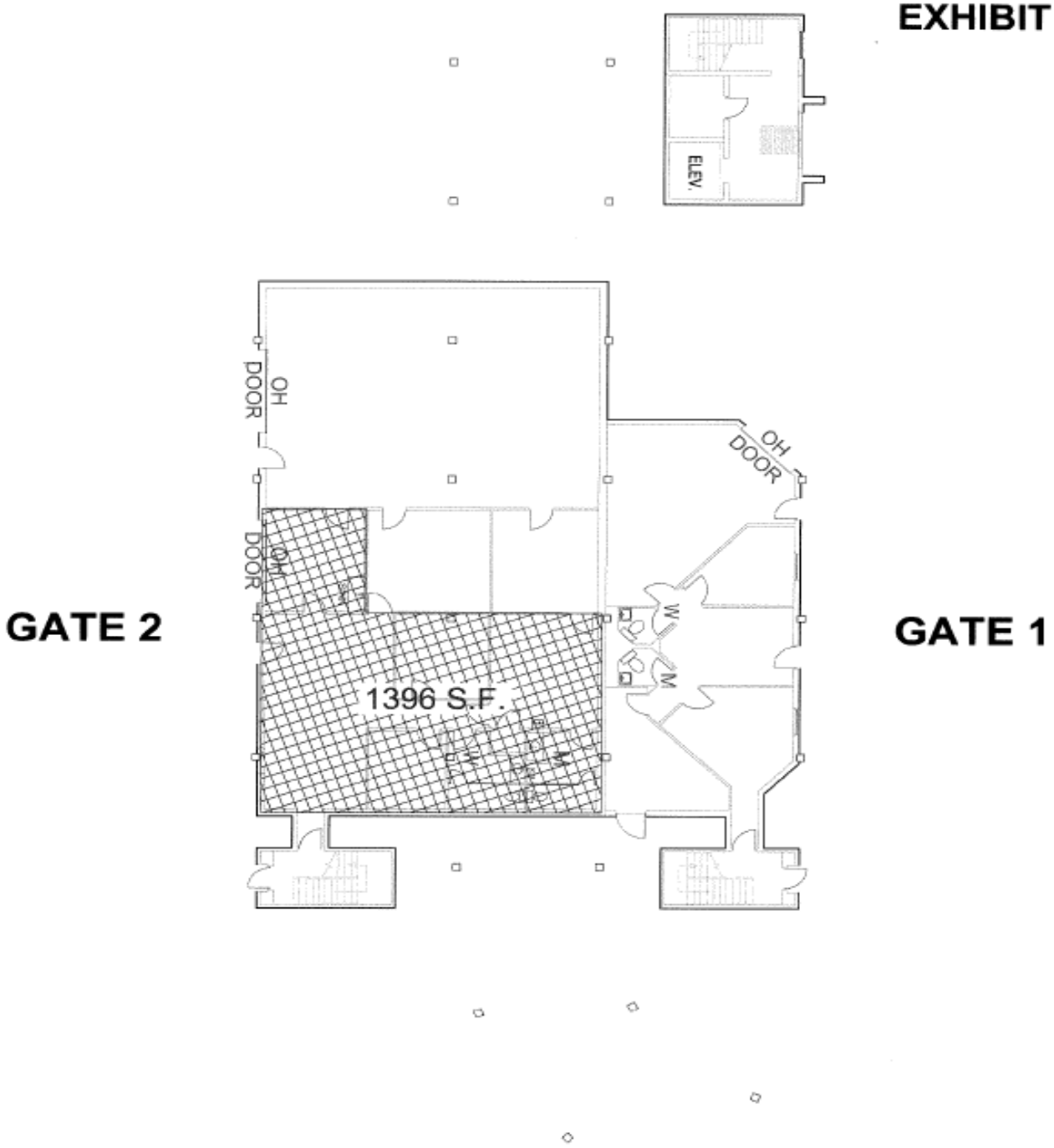


EXHIBIT B-1
BAR
FOOD
GATE 4
PASSERGER
HOLD ROOM
1257 sq.ft.
GATE 3
NEWS STAND
TO TERMINAL
GATE 4
WICHITA MID-CONTINENT AIRPORT
THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
SHEET
2/9/10
H.G.O.
1" = 20'
1 of 1
D:\Drawings\213-Terminal\TERMINAL-BLDG\Airlines\Delta\Space Allocations 2010.dwg, 4cf6, 2/9/2010 5:11:49 PM

EXHIBIT B-1



GATE 2			
OPERATIONS AREA			
WICHITA MID-CONTINENT AIRPORT THE WICHITA AIRPORT AUTHORITY WICHITA, KANSAS			
DATE	DR. BY	SCALE	SHEET
2/9/10	H.G.O.	1" = 10'	1 of 1

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SUPPLEMENTAL AGREEMENT NO. 3

AIRLINE AIRPORT USE AND LEASE AGREEMENT
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

WICHITA AIRPORT AUTHORITY

AND

FRONTIER AIRLINES HOLDINGS, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 3 made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and FRONTIER AIRLINES HOLDINGS, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated October 16, 2007 for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport; and

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. 1 dated December 11, 2007, which extends the Agreement and modifies the exhibits within the Agreement; and Supplemental Agreement No. 2 dated January 13, 2009, which extends the Agreement and modifies the exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 3 for the purpose of modifying certain language, extending the term of the Agreement, and modifying exhibits within the Agreement;

NOW, THEREFORE, the parties further agree as follows:

1.

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates

under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to and from Airport, together with the Host Airline, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the

required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement

with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By_____
Victor D. White, Director of Airports

ATTEST:

FRONTIER AIRLINES HOLDINGS, INC.

By _____

By_____
"Airline"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

SUPPLEMENTAL AGREEMENT NO. 8

AIRLINE AIRPORT USE AND LEASE AGREEMENT
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

THE

WICHITA AIRPORT AUTHORITY

AND

UNITED AIRLINES, INC.

THIS SUPPLEMENTAL AGREEMENT NO. 8 made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and UNITED AIRLINES, INC., hereinafter referred to as "AIRLINE".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Airline Airport Use and Lease Agreement dated April 4, 2000, for the purpose of providing air service to the traveling public using Wichita Mid-Continent Airport; and

WHEREAS, the original Agreement has been amended by Supplemental Agreement No. 1 dated May 23, 2000, for the purpose of including clarifying language to allow ingress and egress through airline exclusive-use premises for access of joint-use premises; Supplemental Agreement No. 2 dated May 6, 2003, which extended the term of the Agreement and modified exhibits within the Agreement; and Supplemental Agreement No. 3 dated October 7, 2003, which reflects revised contract language and modifies space; Supplemental Agreement No. 4 dated December 21, 2004, which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 5 dated January 9, 2007 which extended the term of the Agreement and modified the exhibits within the Agreement; Supplemental Agreement No. 6 dated December 11, 2007 which extended the term of the Agreement and modified the exhibits within the Agreement; and Supplemental Agreement No. 7 dated January 13, 2009, which extended the term of the Agreement and modified the exhibits within the Agreement; and

WHEREAS, the Authority and Airline are now desirous of entering into this Supplemental Agreement No. 8 for the purpose of modifying certain language, extending the term of the agreement and modifying exhibits;

NOW, THEREFORE, the parties further agree as follows:

1.

Article I, Section 1.1 – Definitions, shall be modified to include the following language:

Affiliate shall mean an Air Transportation Company that (1) shares a reservation code with or is a wholly-owned subsidiary of Airline or otherwise, under contract with Airline and (2) operates under essentially the same trade name at the Airport and (3) uses essentially the same livery as Airline, and (4) is a part of and feeds into the Airline's connection system.

Host Airline shall mean a Signatory Airline accommodating an Affiliate within its Airline Premises.

Scheduled Air Carrier shall mean an Air Transportation Company performing or desiring to perform scheduled commercial air transportation service over specified routes to and from Airport, and holding any necessary authority to provide such transportation from the appropriate federal and state agencies. Affiliates of Host Airlines providing scheduled air transportation to and from Airport, together with the Host Airline, shall be considered as one Scheduled Air Carrier for the sole purpose of calculating and assessing fees and charges hereunder.

Signatory Airlines shall mean those airlines which provide scheduled air transportation to and from the Airport and which have executed substantially similar agreements to this Agreement, including term, with Authority for the lease, use, and occupancy of facilities at the Airport, including the lease of at least one (1) holdroom and associated Aircraft Parking Apron.

2.

Article II – Term, Section 2.1 – Initial Term, shall be modified as follows:
The term of this Supplemental Agreement shall commence January 1, 2010 and expire at midnight on December 31, 2010, subject to earlier termination as herein provided.

3.

Article III – Premises, Section 3.1.A. – Airline Premises, shall be modified to include the following language:

Exhibits "C" and "G", attached hereto and incorporated herein, shall replace like exhibits included in the original Agreement and Supplemental Agreements.

4.

Article IV – Use of Airport and Related Facilities –Section 4.4 – Rights of Affiliates, shall include the following language:

The rights, privileges, and obligations granted Airline hereunder with respect to the use of the Airport, its appurtenances, and facilities, or in which Airline leases space, shall accrue to any Affiliate to the same extent and degree that such rights and privileges are possessed by Airline hereunder without the requirement for the Affiliate to enter into any written agreement with the Authority. The exercise of such rights and privileges shall be subject to prior written notice by Airline documenting (a) the relationship of the Affiliate which shall be in compliance with the definition of Affiliate in Article 1, Section 1.1, and (b) Airline's agreement that Airline shall report all activity and pay charges and fees provided for under this Agreement should Affiliate fail to do so. Upon receipt of such notice by Authority, Authority shall confirm in writing the receipt of the required notice and such rights and privileges shall take effect the first day of the month following the month in which Authority receives the required notice by Airline. No additional fees or charges other than those specifically set forth and payable by Airline hereunder shall be assessed against Airline or such other Affiliate. Provided, however, it is understood and agreed that should an Affiliate lease space directly from the Authority, such space shall not be considered to be included in the rights and privileges under this Agreement and Airline shall not be responsible to insure such space or indemnify for its use, and such space shall therefore be leased to the Affiliate as non-signatory. Notwithstanding anything to the contrary contained herein, the Affiliate shall have the opportunity to become a Signatory Airline at Airport by agreeing to the terms of and entering into an Airline Airport Use and Lease Agreement.

5.

Article VI – Rentals, Fees, and Charges - Section 6.2 – Rentals for Exclusive Use Premises, and Joint Use Premises, shall be modified as follows:

6.2.B. Airline's proportionate share of rentals for each category and area of Joint Use Premises shall be paid by Airline to Authority in advance, on the first day of each month, without demand or invoicing and shall be calculated in accordance with the following formula:

6.2.B.(1) The total number of square feet of each category and area of Joint Use Premises shall be multiplied by the appropriate annual square footage rate calculated in accordance with Exhibit "G" for such category of space. Twenty (20) percent of the total amount calculated for each category and area shall be divided equally among all Signatory Airlines using said category and area of Joint Use Premises.

6.2.B.(2) Eighty (80) percent of the total amount calculated for each category and area shall be prorated among Scheduled Air Carriers using said category and area of premises based on the ratio of each such Scheduled Air Carriers using said category and area during the calendar month. For purposes of this calculation, each Scheduled Air Carrier's Enplaned Passengers total shall include, in addition to the Enplaned Passengers served by such Scheduled Air Carrier, the number of Enplaned Passengers handled by said Scheduled Air Carrier for other aircraft operators not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for use of Joint Use Premises.

6.2.C. Authority shall estimate the number of Enplaned Passengers in accordance with Paragraph 6.7.D. for any Scheduled Air Carrier which fails to report its Enplaned Passenger data for these calculations. Authority shall also make appropriate adjustments in rentals, fees and charges in the event a Signatory Airline ceases to be a user of a particular category and area of Joint Use Premises.

6.

Article VI – Rentals, Fees, and Charges - Section 6.8 – Security for Payment – Paragraph 6.8.C, shall be modified to include the following language:

6.8.C. The security for payments shall be in an amount equal to two months' rentals for Exclusive Use Premises and Preferential Use Premises, plus estimated landing fees for the same period, all as reasonably estimated by the Director. Security for payment shall also reflect the estimated landing fees for the Airline's Affiliate(s).

7.

Article XI – Indemnification and Insurance – Section 11.1 – Indemnification – Paragraphs 11.1A and 11.1.B, shall be modified as follows:

11.1A. Airline agrees to indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all reasonable expenses incidental to the investigation and defense thereof, in any way arising out of or resulting from any acts, omissions or negligence of Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control; in, on or about Airline Premises or upon Airport Premises; or in connection with its use and occupancy of Airline Premises or use of Airport; provided, however, that Airline shall not be liable for any injury, damage, or loss occasioned by the negligence or willful misconduct of Authority, its agents or employees. When acknowledgment of any action becomes known by the Airline or Authority, they shall give prompt written notice to the other party.

11.1.B. Airline shall indemnify, save, hold harmless, and defend Authority, its Council persons, its officials, agents and employees, its successors and assigns, individually or collectively, from and against all liability for any claims and actions and all expenses incidental to the investigation and defense thereof, in any way arising from or based upon the violation of any federal, state, or municipal laws, statutes, ordinances, or regulations, by Airline, its Affiliates, agents, employees, licensees, successors and assigns, or those under its control.

Section 11.2 – Insurance – Paragraphs 11.2A and 11.2.B, shall be modified as follows:

11.2.A. Without limiting Airline's obligation to indemnify Authority, as provided for in Section 11.1, Airline shall procure and maintain in force at all times during the term of this Agreement an occurrence form, comprehensive airport premises liability and aviation insurance to protect against personal injury and bodily injury liability and property damage liability. The limits for Signatory Airlines operating aircraft larger than sixty (60) seats shall be in an aggregate amount of not less than $100,000,000 per occurrence, combined single limit; provided, however, coverage for non-passengers shall be not less than an aggregate amount of $25,000,000 per occurrence. The limits for Signatory Airlines operating aircraft with sixty (60) seats or less shall be in an aggregate amount of not less than $50,000,000 per occurrence, combined single limit. In addition, Airline shall procure and maintain in force during the Term of this Agreement, liability insurance applicable to the ownership, maintenance, use, or operation of any automobile, mobile equipment or other ground vehicle at the Airport (including owned, non-owned, or hired) in an amount not less than $5,000,000 per occurrence; statutory Workers' Compensation insurance; and other policies of insurance reasonably required by Authority. Airline shall, in its agreement with Affiliates, require Affiliates to provide Authority with the coverage identified in the paragraph; and, in the absence us such coverage agree to include the Affiliates within Airlines insurance certificate.

11.2.B. The aforesaid insurance amounts and types of insurance shall be reviewed from time to time by Authority and may be adjusted by Authority if Authority reasonably determines such adjustments are necessary to protect Authority's interests. Airline shall furnish Authority no later than thirty (30) days following the execution of this Agreement a certificate or certificates of insurance as evidence that such insurance is in force. Airline shall also ensure that Affiliates provide certificates of insurance to the Authority. Authority reserves the right to require a certified copy of such certificates upon request. Airline shall name Authority as an additional insured on such insurance policy or policies to the extent of contractual liability assumed by Airline under Section 11.1 herein. Said policies shall be in a form and content satisfactory to Authority and shall provide for thirty (30) days written notice to Authority prior to the cancellation of or any material change in such policies.

Section 11.3 - Subrogation of Insurance – Paragraph 11.3.A, shall be modified as follows:

11.3.A. Authority hereby waives any and all rights of recovery against Airline for or arising out of damage or destruction of the building, or the demised premises, or any other property of Authority, from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of Airline, its Affiliates, agents, servants or employees or otherwise, but only to the extent that its insurance policies then in force permit such waiver.

8.

Article XVI – Accommodation of a Requesting Airline - Section 16.2 –Accommodation of Requesting Airlines – Paragraph 16.2.A (1), shall be modified as follows:

> 16.2.A.(1) In the event Authority cannot accommodate a Requesting Airline in areas not then leased to Signatory Airlines or other Terminal tenants, then in such event Airline agrees to cooperate with Authority to accommodate the needs of a Requesting Airline on a temporary basis by permitting such Requesting Airline to utilize Airline's Gate Position(s) and other portions of Airline Premises and other necessary facilities in connection with and for the time period(s) necessary to permit passenger loading and unloading operations in conjunction with Requesting Airline's planned operations at times when the use of such facilities shall not interfere with Airline's planned operations or those of its sublessees, licensees or permittees (i.e., one (1) hour prior to a scheduled arrival, one (1) hour after the scheduled departure time, or overnight parking of aircraft of Airline, its sublessees, licensees, or permittees). Authority shall provide Airline with as much advance notice as reasonably possible so that Airline may plan for the accommodation of a Requesting Airline.

9.

Other Terms. It is understood and agreed that all other terms and conditions of any and all existing Agreements and Supplements between the parties hereto shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By _____
Victor D. White, Director of Airports

ATTEST:

UNITED AIRLINES, INC.

By _____

By_____
"Airline"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

EXHIBIT "C"

SUMMARY OF TERMINAL AREAS

AIRLINE TERMINAL SPACE

	Ticket Counter (Type 1)	Hold Rooms (Type 2)	Offices (Type 3)	VIP/Club (Type 3)	Operations (Type 4)	Bag Make-Up (Type 4)	Total	
AirTran	233	1,689	581	-	150	651	3,304	s.f.
America West (US Airways)	-	-	-	-	-	-	-	s.f.
American	200	2,224	1,098	-	1,729	1,752	7,003	s.f.
American Eagle	-	-	-	-	-	-	-	s.f.
Atlantic Southeast	-	-	-	-	-	-	-	s.f.
Chautauqua	-	-	-	-	-	-	-	s.f.
Continental	105	1,470	-	-	203	-	1,778	s.f.
Delta	434	3,221	1,589	-	1,396	1,093	7,733	s.f.
Frontier Holdings	233	1,016	467	-	339	399	2,454	s.f.
Mesa	-	-	-	-	-	-	-	s.f.
Northwest	-	-	-	-	-	-	-	s.f.
Pinnacle	-	-	-	-	-	-	-	s.f.
Republic	-	-	-	-	-	-	-	s.f.
Skywest	-	-	-	-	-	-	-	s.f.
United	335	1,467	1,145	-	-	668	3,615	s.f.
Vacant	1,120	8,218	4,336	-	19,967	3,981	37,622	s.f.
	2,660	19,305	9,216	-	23,784	8,544	63,509	s.f.

AIRLINE JOINT USE SPACE

	Concourses (Type 2)	Bag Claim (Type 2)	Elevators (Type 4)	Inbound Baggage/ Tug Lane (Type 5)	Stairwells (Type 5)	Total	
Joint Use	7,917	7,808	1,205	4,374	1,661	22,965	s.f.

Last Updated: 12/09/2009

EXHIBIT "C"

SUMMARY OF TERMINAL AREAS

TERMINAL SPACE SUMMARY

	Airline Use	Joint Use	Concession Space	Commercial Space		Public Area		Mechanical/ Utility Space	Total	
Airline Space	63,509	22,965	-	-		-		-	86,474	s.f.
Other Rentable	-	-	20,912	5,558		12,028	(a)	-	38,498	s.f.
Subtotal Rentable Space	63,509	22,965	20,912	5,558		12,028		-	124,972	s.f.
Other Areas	-	-	-	16,885	(b)	40,006		5,245	62,136	s.f.
Total Terminal Area	63,509	22,965	20,912	22,443		52,034		5,245	187,108	s.f.

(a) For purposes of this agreement, the public concourse area between Gates 1 & 2 and 7 & 8 is considered rentable.
(b) For purposes of this agreement, a portion of the commercial area on the second floor is considered unusable.

EXHIBIT "G"

ADJUSTMENT OF RATES FOR RENTALS, FEES, AND CHARGES

Section G.1 - Adjustment of Signatory Airline Rates

Signatory Airline rates for Terminal rentals, landing fees, and apron fees shall be adjusted as set forth in Article VII and this Exhibit G. Tables G-1 through G-3 set forth the method to be used in calculating the Signatory Airline average Terminal rental rate and the landing fees rate. The apron fees rate for Aircraft Parking Aprons shall be established as set forth in Section G.3.

Section G.2 - Airline Rentals, Fees, and Charges

G.2.A. Airline's Terminal rentals in each period shall be determined as the sum of:

G.2.A.(1) The product of the appropriate differential Terminal rental rates for the period and the amount of each type of Airline's Exclusive Use Premises and Preferential Use Premises.

G.2.A.(2) Airline's share of rentals for Joint Use Premises. Rentals for Joint Use Premises shall be calculated as the product of the appropriate differential Terminal rental rates for the period and the amount of each category of Joint Use Premises. Airline's share of rentals for Joint Use Premises shall be determined as set forth in Section 6.2.B. of this Agreement.

G.2.B. Airline's apron fees in each period shall be determined as the product of the apron fees rate for the period and the number of aircraft passenger loading gates leased by Airline.

G.2.C. Airline's landing fees in each period shall be determined as the product of the landing fees rate for the period and airline's landed weight for the period. Airline's landed weight for each period shall be determined as the sum of the Maximum Gross Landing Weight of each of Airline's aircraft multiplied by the number of Revenue Landings by each of said aircraft at Airport during the period. Training and Testing flight landings not exceeding 10% of Revenue landings as well as return landings as defined within the term Revenue Landings shall be excluded from landing fee calculations.

Section G.3 - Signatory Airline Apron Fees Rate

The annual Signatory Airline apron fees rate shall initially be $14,400 per aircraft passenger loading gate, with said rate to be adjusted annually in accordance with changes in the U.S. Implicit Price Deflator Index.

Section G.4 - Differential Terminal Rates

G.4.A. Premises leased by Signatory Airlines in the Terminal shall be classified according to types of space for the purpose of establishing differential rental rates by location and function as set forth below:

Types of Space	Location/Function	Weighted Value
1	Ticket Counter	1.00
2	Holdrooms; Concourses; Bag Claim	0.90
3	Offices; VIP/Club Space	0.80
4	Bag Make-Up; Operations Space, Elevators	0.70
5	Inbound Bag; Tug Lane, Stairwells	0.50

G.4.B. The amount of each type of space shall be as set forth in Exhibit "C", as such shall be amended from time to time pursuant to this Agreement. A summary of each type of space as shown on Exhibit "C" is set forth below:

	Type of Space					
	Type 1	Type 2	Type 3	Type 4	Type 5	Total
Airline Exclusive Use and Preferential Use						
AirTran	233	1,689	581	801	0	3,304 s.f.
American	200	2,224	1,098	3,481	0	7,003 s.f.
Continental	105	1,470	0	203	0	1,778 s.f.
Delta	434	3,221	1,589	2,489	0	7,733 s.f.
Frontier	233	1,016	467	738	0	2,454 s.f.
United	335	1,467	1,145	668	0	3,615 s.f.
Vacant	1,120	8,218	4,336	23,948	0	37,622 s.f.
Sub-Total	2,660	19,305	9,216	32,328	0	63,509 s.f.
Airline Joint Use	0	15,725	0	1,205	6,035	22,965 s.f.
Total Airline Space	2,660	35,030	9,216	33,533	6,035	86,474 s.f.

G.4.C. Using the above space totals, as such may be amended from time to time pursuant to this Agreement, the average Terminal rental rate in each period shall be converted to differential Terminal rental rates by weighting the amount of Type 1 through 5 space for all Signatory Airlines by the relative factors set forth in Paragraph G.4.A. to obtain a weighted equivalent amount of space. The total amount of Signatory Airline Terminal rentals for Type 1 through 5 space shall be next determined as the product of the average Terminal rate for the period multiplied by the total amount of said Signatory Airline space, and divided by the weighted equivalent space to determine the rate for the Type 1 (premium) space. Rates for Types 2 through 5 space shall then be determined by multiplying the relative factors for these types of space by the Type 1 premium rate.

Section G.5 - Signatory Airline Rates For The Current Rate Setting Period

G.5.A. For the period extending from January 1, 2010 to December 31, 2010, Signatory Airline Terminal rental rates shall be as follows:

Type of Space	Location/Function	Annual Rate per Sq. Ft.
1	Ticket Counter	$44.86
2	Holdrooms; Concourses; Bag Claim	$40.38
3	Offices; VIP/Club Space	$35.89
4	Bag Make-Up; Operations Space, Elevators	$31.40
5	Inbound Bag; Tug Lane, Stairwells	$22.43

These rates are based upon an average Signatory Airline Terminal rental rate of $35.30 per square foot, as calculated in Table G-1.

G.5.B. For the period set forth in Paragraph G.5.A, the annual Signatory Airline apron fees rate shall be $14,400 per aircraft passenger loading gate leased by Airline.

G.5.C. For the period set forth in Paragraph G.5.A, the Signatory Airline landing fees rate shall be $2.48 per 1,000 pounds of Maximum Gross Landing Weight.

Section G.6 - Explanation of Table G-1 Line Items

G.6.A **Direct O&M Expenses**. These expenses are incurred for operation and maintenance of the Airport and are attributable to direct cost centers.

G.6.B **Indirect O&M Expenses**. These expenses are associated with the operation and maintenance of the Airport, but cannot be associated with specific revenue-producing activities, and are allocated to the direct cost centers for rate setting purposes.

G.6.C **Capital Charges**. These charges include Capital Charges as defined in Section 1.1.

G.6.D **Debt Service Coverage**. In the event general purpose revenue bonds are issued for Airport System improvements or projects, coverage equal to twenty-five percent (25%) of Debt Service assignable to the Terminal and Airfield cost centers (including amounts allocable from indirect cost centers) would be included as a rate-base element.

G.6.E **Special Fund/Accounts**. In the event a general purpose Airport System revenue bond financing occurs, allocable portions of any special funds or accounts would be included as rate-base elements, as follows:

G.6.E.(1) Debt Service Reserve Fund deficiencies – allocated 100 percent to landing fees calculation.

G.6.E.(2) O&M Reserve deficiencies – allocated to direct cost centers in proportion to direct and allocated indirect operation and maintenance expenses in each.

G.6.E.(3) Renewal and replacement fund replenishment – to be funded through coverage funds if sufficient; otherwise included in Terminal rental and landing fees rate-bases in proportion to the revenue bond Debt Service in each.

G.6.F **Apron Fees**. Apron fees shall be credited against the Airfield landing fees requirement.

G.6.G **Other Landing Fees.** Cargo Airline landing fee and landing fees collected from any Air Transportation Companies other than Signatory Airlines.

G.6.H **Other Airfield Offsets**. Revenues received as fuel flowage fees, in-flight catering concession fees, and any other miscellaneous Airfield revenues, shall be credited against the airfield landing fees requirement.

G.6.I **Security Reimbursements**. Revenues received as reimbursement for security expenses shall be credited against the Terminal rental requirement.

G.6.J **Average Terminal Rental Rate**. The adjusted Terminal rental requirement shall be divided by usable Terminal area (gross area per Exhibit "C" less mechanical/utility space) to calculate the required average Terminal rental rate in each period.

G.6.K **Landing Fees Rate**. The adjusted Airfield landing fees requirement shall be divided by Signatory Airline landed weight to calculate the required Signatory Airline landing fees rate in each period.

Section G.7 - Airport Cost Centers

Airport cost centers used in the determination of rates for rentals, fees, and charges shall include, but not necessarily be limited to, those described in Paragraphs G.7.A. and G.7.B below.

G.7.A. **Direct Cost Centers**.

01 - Airfield - Areas provided for the landing, takeoff, and taxiing of aircraft; aircraft parking; approach and clear zones; and avigation easements.

02 - Terminal - Terminal building and concourses, including areas below concourses. Airport expenses associated with security screening and the public address system shall be included in the Terminal cost center.

03 - Other Airline - Air cargo buildings and associated apron areas; airline maintenance buildings; building space occupied by Air Midwest; and any other miscellaneous Airline facilities not included in the Terminal cost center.

04 - Ground Transportation - All landside roadways, rental car facilities and areas, and auto parking facilities and areas.

05 - General Aviation - United Beechcraft and Yingling Aircraft, including associated aircraft storage and auto parking facilities.

06 - Commercial & Other Aviation - All other leased facilities and properties including Cessna, Gates Learjet, Hilton Hotel, and other miscellaneous commercial enterprises.

07 - Government - FAA activities, including Tower and Flight Service Station; U.S. Post Office; and U.S. Weather Service.

08 - Jabara - All activities and facilities at Colonel James Jabara Airport.

G.8.B **Indirect Cost Centers.**

09 - Administration - Administration activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

10 - Building Maintenance - Maintenance activities and facilities which are dedicated to buildings and which cannot be directly assigned to other direct or indirect cost centers.

11 - Field Maintenance - Maintenance activities and facilities which are dedicated to airside and landside other than buildings and which cannot be directly assigned to other direct or indirect cost centers.

12 - Custodial - Janitorial activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

13 - Engineering - Activities and facilities associated with project development and grant administration which cannot be directly assigned to other direct or indirect cost centers.

14 - Safety - ARFF and medical activities and facilities which cannot be directly assigned to other direct or indirect cost centers.

15 - Systems & Services - Special services and utilities which cannot be directly assigned to other direct or indirect cost centers.

Section G.8 - Indirect Cost Center Allocations

Expenses for each indirect cost center shall be allocated to the direct cost centers as set forth in Paragraphs G.8.A. through G.8D. below.

G.8.A. **Custodial (12) -** Expenses for Custodial (12), which represent Terminal custodial/janitorial expenses, shall be allocated 100 percent to the Terminal (02) cost center.

G.8.B. **Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13) -** Expenses for Administration (09), Building Maintenance (10), Field Maintenance (11), and Engineering (13) shall be allocated as follows:

Direct Cost Center	Administration (09) (%)	Building Maint. (10) (%)	Field Maint. (11) (%)	Engineering (13) (%)
Airfield (01)	20.0	-	50.0	25.0
Terminal (02)	35.0	75.0	5.0	30.0
Other Airline (03)	5.0	5.0	5.0	5.0
Ground Transport (04)	10.0	5.0	10.0	5.0
General Aviation (05)	10.0	5.0	15.0	5.0
Comm & Otr Avtn (06)	5.0	5.0	5.0	5.0
Government (07)	5.0	-	5.0	5.0
Jabara (08)	10.0	5.0	5.0	20.0
	100.0	100.0	100.0	100.0

G.8.C **Safety (14) -** Expenses for Safety (14) shall be allocated to each direct cost center based on the following allocation percentages:

Direct Cost Center	Percentage
Airfield (01)	70.0%
Terminal (02)	5.0
Other Airline (03)	5.0
Ground Transportation (04)	5.0
General Aviation (05)	5.0
Commercial & Other Aviation (06)	5.0
Government (07)	5.0
Jabara (08)	-
	100.0%

G.8.D. **Systems and Services (15) -** Expenses for Systems and Services (15) shall be allocated in proportion to the direct assignments of Systems and Services expenses to the direct cost centers. Based on 2008 actual data, the assignment percentages used to estimate the rates for the rate setting period indicated in Section G.5 are as follows:

Direct Cost Center	Percentage
Airfield (01)	21.0%
Terminal (02)	62.0
Other Airline (03)	2.0
Ground Transportation (04)	5.0
General Aviation (05)	0.0
Commercial & Other Aviation (06)	1.0
Government (07)	9.0
Jabara (08)	0.0
	100.0%

Wichita Airport Authority
Exhibit G-1
Calculation of Terminal Rental and Landing Fee Rates
2010 Budget

See Note		Budget 2010 Airfield Landing Fees Rate	Budget 2010 Average Terminal Rental Rate	Budget 2009 Airfield Landing Fees Rate	Budget 2009 Average Terminal Rental Rate
1.A	Direct Operation and Maintenance Expenses	$ 1,379,511	$ 2,768,515	$ 1,449,286	$ 2,672,991
1.B	Indirect Operation and Maintenance Expenses	2,115,479	1,387,391	2,085,056	1,409,440
	Subtotal O & M Expenses	3,494,990	4,155,906	3,534,342	4,082,431
1.C	Debt Service	144,134	256,046	136,197	252,481
1.D	Revenue Bond Coverage	-	-	-	-
1.E	Special Funds/Accounts	-	-	-	-
	Total Requirement	3,639,124	4,411,952	3,670,539	4,334,912
1.H	Less: Security Reimbursements		-		-
1.F	Less: Apron Fees	(123,200)		(115,200)	
1.G	Less: Other Landing Fees	(502,047)		(526,888)	
1.G	Less: Other Airfield Offsets	(598,660)		(645,000)	
	Adjusted Requirement	**$ 2,415,216**	**$ 4,411,952**	**$ 2,383,451**	**$ 4,334,912**
1.I	Terminal Area S.F. (Less Mech/Util)		124,972		124,972
1.I	**Average Terminal Rental Rate**		**$ 35.30**		**$ 34.69**
1.J	Signatory Airline Landed Weight (M-lbs.)	973,080		984,050	
1.J	**Landing Fees Rate**	**$ 2.48**		**$ 2.42**	

12/15/2009

Differential Terminal Rates

2010 Budget

	Budget 2010	Budget 2009
Average Terminal Rental Rate	$ 35.30	$ 34.69
Signatory Airline Space	86,474	86,474
Total Rentals	$ 3,052,836.99	$ 2,999,529.10
Relative Space	68,050.40	68,050.40
Premium	$ 44.86	$ 44.08
Type 1 Rate	$ 44.86	$ 44.08
Type 2 Rate	$ 40.38	$ 39.67
Type 3 Rate	$ 35.89	$ 35.26
Type 4 Rate	$ 31.40	$ 30.85
Type 5 Rate	$ 22.43	$ 22.04

Exhibit G-2
(Page 1 of 2)
Three Year Detail of
O & M Expenses

	Actual Preceding Fiscal Year 2008	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010
O&M Expenses			
Direct O&M Expenses			
Airfield	$ 1,557,199	$ 1,449,286	$ 1,379,511
Terminal	2,767,761	2,672,991	2,768,515
Other Airline	97,312	57,895	64,326
Ground Transportation	312,916	183,041	281,261
General Aviation	99,742	60,643	67,186
Commercial & Other Aviation	48,580	61,677	48,344
Government	200,360	187,822	186,729
Jabara	329,385	174,120	220,487
Subtotal Direct	5,413,256	4,847,475	5,016,359
Indirect O&M Expenses			
Administration	2,042,359	1,503,954	1,557,393
Building Maintenance	289,288	341,595	330,829
Field Maintenance	700,278	768,971	775,706
Custodial	170,172	242,029	183,311
Engineering	536,519	541,066	587,870
Safety	1,788,400	1,749,348	1,761,013
Systems & Services	142,419	166,543	173,668
Subtotal Indirect	5,669,435	5,313,505	5,369,791
Total O&M Expenses	**$ 11,082,691**	**$ 10,160,980**	**$ 10,386,150**

12/15/2009

Exhibit G-2
(Page 2 of 2)
Three Year Detail of
Debt Service

	Actual Preceding Fiscal Year 2008	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010
Debt Service			
Direct Debt Service			
Airfield	$ 100,858	$ 70,246	$ 86,185
Terminal	133,448	101,407	97,994
Other Airline	40,888	41,333	41,076
Ground Transportation	415,693	185,811	347,847
General Aviation	37,459	38,164	31,304
Commercial & Other Aviation	70,534	42,364	70,555
Government	68,529	63,401	-
Jabara	77,044	78,158	50,442
Subtotal Direct	944,452	620,884	725,404
Indirect Debt Service			
Administration	29,303	16,648	22,305
Building Maintenance	76,638	76,638	76,638
Field Maintenance	27,558	27,826	27,670
Custodial	-	-	-
Engineering	-	-	-
Safety	19,001	19,086	12,737
Systems & Services	145,695	147,281	146,366
Unassigned	54,073	53,421	19,761
Subtotal Indirect	352,269	340,901	305,476
Total Debt Service	**$ 1,296,721**	**$ 961,785**	**$ 1,030,880**

12/15/2009

Exhibit G-3

Three Year Detail of Revenues

After Adjustment for Settlement

	Actual Preceding Fiscal Year 2008	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010
Airfield			
Signatory Airline Landing Fees	$ 2,494,475	$ 2,383,451	$ 2,415,216
Nonsignatory Airline Landing Fees	69,768	27,842	40,439
Cargo Airline Landing Fees	481,136	499,046	461,608
Signatory Airline Apron Fees	133,953	115,200	123,200
Aviation Fuel Flowage Fees	668,713	615,000	568,280
Inflight Catering	-	-	0
Other Airfield Revenues	(226,904)	(405,020)	30,380
Subtotal Airfield	3,621,141	3,235,519	3,639,124
Terminal			
Rentals - Airlines	2,013,547	1,997,251	1,861,063
Security Reimbursement	-	-	0
Other Terminal Revenues	829,017	802,458	646,233
Subtotal Terminal	2,842,564	2,799,710	2,507,296
Other Airline	539,121	627,934	467,939
Ground Transportation	6,511,654	6,236,544	6,120,721
General Aviation	738,645	691,760	660,996
Commercial & Other Aviation	2,418,525	2,782,245	2,920,153
Government	757,516	803,956	638,439
Jabara	353,659	450,510	409,076
Other (Indirect)	553,728	837,872	730,659
Total Revenue	**$ 18,336,554**	**$ 18,466,051**	**18,094,403**

12/15/2009

Wichita Airport Authority
Comparison
Landing Fee Rates
2010 Budget

See Note		Budget 2010 Airfield Landing Fees Rate	Budget 2009 Airfield Landing Fees Rate	Dollar Difference	Percent Difference
1.A	Direct Operation and Maintenance Expenses	$ 1,379,511	$ 1,449,286	$ (69,775)	-5%
1.B	Indirect Operation and Maintenance Expenses	2,115,479	2,085,056	30,423	1%
	Subtotal O & M Expenses	3,494,990	3,534,342	(39,352)	-1%
1.C	Debt Service	144,134	136,197	7,937	6%
1.D	Revenue Bond Coverage	-	-	-	#DIV/0!
1.E	Special Funds/Accounts	-	-	-	#DIV/0!
	Total Requirement	3,639,124	3,670,539	(31,415)	-1%
1.F	Less: Apron Fees	(123,200)	(115,200)	(8,000)	7%
1.G	Less: Other Landing Fees	(502,047)	(526,888)	24,841	-5%
1.G	Less: Other Airfield Offsets	(598,660)	(645,000)	46,340	-7%
	Adjusted Requirement	**$ 2,415,216**	**$ 2,383,451**	**31,765**	**1%**
1.J	Signatory Airline Landed Weight (M-lbs.)	973,080	984,050	(10,970)	-1%
1.J	**Landing Fees Rate**	**$ 2.48**	**$ 2.42**	**$ 0.06**	**2%**

12/15/2009

Wichita Airport Authority
Comparison
Terminal Rental Rates
2010 Budget

See Note		Budget 2010 Average Terminal Rental Rate	Budget 2009 Average Terminal Rental Rate	Dollar Difference	Percent Difference
1.A	Direct Operation and Maintenance Expenses	$ 2,768,515	$ 2,672,991	$ 95,524	4%
1.B	Indirect Operation and Maintenance Expenses	1,387,391	1,409,440	(22,049)	-2%
	Subtotal O & M Expenses	4,155,906	4,082,431	73,475	2%
1.C	Debt Service	256,046	252,481	3,565	1%
1.D	Revenue Bond Coverage	-	-	-	#DIV/0!
1.E	Special Funds/Accounts	-	-	-	#DIV/0!
	Total Requirement	4,411,952	4,334,912	77,040	2%
1.H	Less: Security Reimbursements	-	-	-	#DIV/0!
	Adjusted Requirement	**4,411,952**	**$ 4,334,912**	**77,040**	**2%**
1.I	Terminal Area S.F. (Less Mech/Util)	124,972	124,972	-	0%
1.I	**Average Terminal Rental Rate**	**$ 35.30**	**$ 34.69**	**$ 0.62**	**2%**

12/15/2009

Comparison
O & M Expenses

	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010	Dollar Difference	Percent Difference
O&M Expenses				
Direct O&M Expenses				
Airfield	$ 1,449,286	$ 1,379,511	$ (69,775)	-5%
Terminal	2,672,991	2,768,515	95,524	4%
Other Airline	57,895	64,326	6,431	11%
Ground Transportation	183,041	281,261	98,220	54%
General Aviation	60,643	67,186	6,543	11%
Commercial & Other Aviation	61,677	48,344	(13,333)	-22%
Government	187,822	186,729	(1,093)	-1%
Jabara	174,120	220,487	46,367	27%
Subtotal Direct	4,847,475	5,016,359	168,884	3%
Indirect O&M Expenses				
Administration	1,503,954	1,557,393	53,439	4%
Building Maintenance	341,595	330,829	(10,766)	-3%
Field Maintenance	768,971	775,706	6,736	1%
Custodial	242,029	183,311	(58,718)	-24%
Engineering	541,066	587,870	46,805	9%
Safety	1,749,348	1,761,013	11,665	1%
Systems & Services	166,543	173,668	7,125	4%
Subtotal Indirect	5,313,505	5,369,791	56,285	1%
Total O&M Expenses	**$ 10,160,980**	**$ 10,386,150**	**225,170**	**2%**

Comparison
Debt Service

	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010	Dollar Difference	Percent Difference
Debt Service				
Direct Debt Service				
Airfield	$ 70,246	$ 86,185	$ 15,939	23%
Terminal	101,407	97,994	(3,413)	-3%
Other Airline	41,333	41,076	(257)	-1%
Ground Transportation	185,811	347,847	162,036	87%
General Aviation	38,164	31,304	(6,860)	-18%
Commercial & Other Aviation	42,364	70,555	28,191	67%
Government	63,401	-	(63,401)	-100%
Jabara	78,158	50,442	(27,716)	-35%
Subtotal Direct	620,884	725,404	104,520	17%
Indirect Debt Service				
Administration	16,648	22,305	5,657	34%
Building Maintenance	76,638	76,638	(1)	0%
Field Maintenance	27,826	27,670	(156)	-1%
Custodial	-	-	-	#DIV/0!
Engineering	-	-	-	#DIV/0!
Safety	19,086	12,737	(6,349)	-33%
Systems & Services	147,281	146,366	(915)	-1%
Unassigned	53,421	19,761	(33,660)	-63%
Subtotal Indirect	340,901	305,476	(35,425)	-10%
Total Debt Service	**$ 961,785**	**$ 1,030,880**	**69,095**	**7%**

Comparison
Operating Revenues

	Estimated Current Fiscal Year 2009	Budget Next Fiscal Year 2010	Dollar Difference	Percent Difference
Airfield				
Signatory Airline Landing Fees	$ 2,383,451	$ 2,415,216	$ 31,765	1%
Nonsignatory Airline Landing Fees	27,842	40,439	12,597	45%
Cargo Airline Landing Fees	499,046	461,608	(37,438)	-8%
Signatory Airline Apron Fees	115,200	123,200	8,000	7%
Aviation Fuel Flowage Fees	615,000	568,280	(46,720)	-8%
Inflight Catering	-	0	-	#DIV/0!
Other Airfield Revenues	(405,020)	30,380	435,400	-108%
Subtotal Airfield	3,235,519	3,639,124	403,605	12%
Terminal				
Rentals - Airlines	1,997,251	1,861,063	(136,188)	-7%
Security Reimbursement	-	0	-	#DIV/0!
Other Terminal Revenues	802,458	646,233	(156,226)	-19%
Subtotal Terminal	2,799,710	2,507,296	(292,414)	-10%
Other Airline	627,934	467,939	(159,995)	-25%
Ground Transportation	6,236,544	6,120,721	(115,823)	-2%
General Aviation	691,760	660,996	(30,764)	-4%
Commercial & Other Aviation	2,782,245	2,920,153	137,907	5%
Government	803,956	638,439	(165,517)	-21%
Jabara	450,510	409,076	(41,434)	-9%
Other (Indirect)	837,872	730,659	(107,213)	-13%
Total Revenue	**$ 18,466,051**	**18,094,403**	**(371,648)**	**-2%**

12/15/2009

City of Wichita
City Council Meeting
February 23, 2010

TO: Wichita Airport Authority

SUBJECT: Supplemental Agreement No. 1 – Management/Operation of Public Automobile Parking Facility at Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Agreement.

Background: The Wichita Airport Authority (WAA) has an existing agreement with AMPCO System Parking for the management and operation of the revenue producing public and employee parking lots at Mid-Continent Airport. The existing Agreement is set to expire on April 30, 2010. Concurrent with the Air Capital Terminal 3 (ACT3) project, new terminal parking facilities will be constructed. The construction schedule anticipates completion of both of these projects at approximately the same time in the first half of 2013. The term of this proposed Supplemental Agreement (S.A.) would become effective May 1, 2010, extend for a period of three (3) years, and terminate on April 30, 2013. There is a provision for a month-to-month extension beyond that period if the procurement for a replacement operator has not been completed by that time. All other terms and conditions of the Agreement would remain unchanged throughout the term of this S.A. AMPCO has agreed to a "freeze" of the annual management fee at the current (2010) level throughout the term of the S.A.

Analysis: The long-term interests of the public are best served by entering into a Supplemental Agreement with AMPCO. The major obstacle to undertaking a competitive public procurement at this time is that there are many uncertainties and unknowns associated with the design of the future parking facilities. These uncertainties and unknowns would likely have a negative and detrimental effect on price proposals. In order to financially protect themselves, contractors will typically inflate price proposals when there are many unknowns associated with a project. It is reasonable and appropriate to continue with the same contractor, under the same contractual conditions, with a known management fee (frozen at the 2010 level), until nearing the time when the new parking facilities are completed. At that time a competitive parking management selection would be initiated.

Financial Considerations: The Supplemental Agreement term is for a period of three (3) years. The Agreement sets forth a flat-rate annual management fee of $86,663 payable by the WAA on a monthly basis. Funds are available for these contractual services in the Airport Operating Budget.

Goal Impact: The Airport's contribution to the economic vitality of Wichita is promoted through providing services which enhance the experience of our customers.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the Supplemental Agreement, and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 1 – Management/Operation of Public Automobile Parking Facility Wichita Mid-Continent Airport.

SUPPLEMENTAL AGREEMENT NO. 1

MANAGEMENT/OPERATION of PUBLIC AUTOMOBILE PARKING FACILITY
WICHITA MID-CONTINENT AIRPORT

BY AND BETWEEN

WICHITA AIRPORT AUTHORITY

AND

AMPCO SYSTEM PARKING

THIS SUPPLEMENTAL AGREEMENT No. 1, made and entered into this February 23, 2010, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "AUTHORITY", and AMPCO SYSTEM PARKING, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into a Management/Operation of Public Automobile Parking Facility Agreement dated April 12, 2005 for the purpose of operating and managing Airport Parking Facilities to the traveling public using Wichita Mid-Continent Airport;

WHEREAS, the current Management/Operation of Public Automobile Parking Facility Agreement is set to expire on April 30, 2010;

WHEREAS, the Authority and Contractor are now desirous of entering into this Supplemental Agreement No. 1 for the purpose of extending the term of the Agreement;

WHEREAS, the completion date of the new terminal and parking facilities construction is unknown at this time, necessitating a short-term agreement extension with the Contractor;

NOW, THEREFORE, the parties further agree as follows:

1.

Article 4-4.1 and 4-4.2 – Term, shall be superseded by the following language, effective May 1, 2010:

The term of this Supplemental Agreement No. 1 shall be for a three-year period commencing May 1, 2010 and terminating April 30, 2013.

It is acknowledged that the process and timeline for selecting a contractor to operate/manage the Airport Parking Facilities has not been determined at this time, and remains subject to final terminal

and parking facilities design and construction. As set out in Paragraph 1, the term of the extension shall be through April 30, 2013 and then may be automatically renewed on a month-to-month basis, commencing May 1, 2013, until such time as the process for competitive public selection of a management/operation contractor for the new parking facilities has been completed. After April 30, 2013, either party may terminate the Agreement upon providing a thirty-day written notice to the other party.

2.

Article 8-8.1 – Fees, Charges and Accountability, shall be revised as follows:

Agreement Period	Annual Management Fee
5/1/2010 – 04/30/2013*	$86,663

*The Management Fee during the month-to-month extension shall continue at the Annual Management Fee computed and payable on a monthly basis, as set out above.

3.

Other Terms - It is understood and agreed that except as modified herein all other terms and conditions of the original Agreement, as amended, shall remain in full force and effect.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"Authority"

By_____
Victor D. White, Director of Airports

ATTEST:

AMPCO PARKING SYSTEM
HOUSTON, TEXAS

By _____

By_____
"Contractor"

ATTEST:

ABM INDUSTRIES INCORPORATED
SAN FRANCISCO, CALIFORNIA

By _____

By_____
"Parent Company of Contractor"

APPROVED AS TO FORM: _____ Date: _____
Director of Law

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL FEBRUARY 23, 2010

a. Old Town Sculpture Bases and Hardscape Improvements, Phase 3 (Mead, Douglas to 2nd Street) (472-84879/794066/437010) Does not affect existing traffic. (District I) - $35,000.00

b. Comotara 2nd Addition Storm Sewer Improvements (east of Woodlawn, north of East 21st Street North) (468-84662/660531/857107) Local traffic shall be maintained with minimal street closures not to exceed 48 hours. (District I) - $141,785.00

c. 21st & Broadway Intersection Improvements (472-84295/448-90464/706934/636229/205400/779618) See Special Provisions. (District VI) - $8,750,000.00

d. Stormwater Sewer Improvements for Fairway Avenue, Phase 2 to serve Westlink Village Addition (west of Tyler, south of Central) (468-84197a/133117) Traffic to be maintained using flagpersons and barricades. (District V) - $370,799.00

DEEDS AND EASEMENTS – FEBRUARY 23, 2010

a. Storm Water Drainage and Detention Basin Improvements Easement dated January 25, 2010 from Unified School District #259 for a pond lying within Reserve C, Cedar View Village Addition, an addition to Wichita, Sedgwick County, Kansas, (OCA #751474) No cost to City.

b. Storm Water Drainage and Detention Basin Improvements Easement dated February 23, 2010 from LCS Enterprises, Inc. for a pond lying within Reserves B and C, Cambria Addition, an addition to Wichita, Sedgwick County, Kansas, (OCA #751466) No cost to City.

c. Storm Water Drainage and Detention Basin Improvements Easement dated February 9, 2010 from Webb Business Park LLC for a pond lying within Reserve A, Webb Business Park Addition, an addition to Wichita, Sedgwick County, Kansas, (OCA #751469) No cost to City.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – 2010 Orpheum Street Car Show (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Jennifer Wright, Orpheum Performing Arts Center is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following temporary street closure request has been submitted:

2010 Orpheum Street Car Show May 2, 2010 5:00 am – 7:00 pm

- First Street, Market to Topeka – not including intersections.
- Broadway, Douglas to Second Street – not including intersections.

Client will arrange to remove blockades as necessary to allow business owners and emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Wichita Half Marathon (District IV)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Clark Ensz, Athletics Wichita is coordinating with City of Wichita Staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Wichita Half Marathon April 25, 2010 6:00 am – 12:00 pm

- Nims Street, Stackman to Murdock.
- Stackman Blvd., Nims Street to Murdock.
- Nims Street, Murdock to River Blvd.
- River Blvd., Nims to Faulkner.
- Faulkner, River Blvd. to Stackman Drive.
- Sim Park Drive, Stackman to cutoff west of Old Cowtown Museum.

Client will arrange to remove blockades as necessary to allow Sim Park staff and emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Intrust Bank Arena Bon Jovi Concert (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Mike Sandbo is coordinating with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Bon Jovi Concert March 11, 2010 7:00 am – March 12, 2010 2:00 am

- William Street, St. Francis to Commerce Street
- Commerce Street, William to Waterman

Client will arrange to remove blockades as necessary to allow emergency vehicle access during the entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Intrust Bank Arena Billy Joel/Elton John Concert (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Mike Sandbo is coordinating with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Billy Joel/Elton John Concert March 3, 2010 7:00 am – March 4, 2010 2:00 am

- William Street, St. Francis to Commerce Street
- Commerce Street, William to Waterman

Client will arrange to remove blockades as necessary to allow emergency vehicle access during the entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Intrust Bank Arena Jeff Dunham (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Mike Sandbo is coordinating with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Jeff Dunham March 12, 2010 7:00 am – March 13, 2010 2:00 am

- William Street, St. Francis to Commerce Street
- Commerce Street, William to Waterman

Client will arrange to remove blockades as necessary to allow emergency vehicle access during the entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Intrust Bank Arena WWE Smackdown (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events Procedure, the event promoter Mike Sandbo is coordinating with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

WWE Smackdown March 2, 2010 7:00 am – March 3, 2010 2:00 am

- William Street, St. Francis to Commerce Street
- Commerce Street, William to Waterman

Client will arrange to remove blockades as necessary to allow emergency vehicle access during the entire designated time period. Blockades will be removed immediately upon completion of the event.

Financial Consideration: The event sponsor is responsible for all costs associated with special event.

Goal Impact: Enhance the Quality of Life

Legal Consideration: None

Recommendation/Actions: It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator.

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Vacant Land at 11601 East Harry for the Harry: Greenwich to 127th Street East Road Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On June 2, 2009, City Council authorized the design concept and right-of-way acquisition for the Harry Street: Greenwich Road to 127th Street East road project. The proposed design concept is a three lane roadway with two through lanes and a center two-way left turn lane. Drainage improvements will be included with the project as well as a 10 foot wide bike and pedestrian path on the south side of the street. Left turn lanes will be provided at all four approaches to the Harry Street and 127th Street East intersection. The property at 11601 East Harry is vacant and improved with a barbed wire fence with welded pipe corner assemblies. The property is zoned single family residential. While it is currently used for agricultural purposes, the property is surrounded by single family development. The project requires a twenty foot wide strip, totaling 9,718 square feet, along the north side of the property.

Analysis: The owner rejected the estimated market value of $3,500, or $0.36 per square foot for the land. The owner has agreed to convey the land at $6,000, or $0.62 per square foot. In addition, 525 linear feet of fence must be replaced at a cost of $12,600. The compensation for the fencing is based on professional bids to have the current fenced removed, reset and replaced.

Financial Considerations: The funding sources for the project are General Obligation Bonds and Federal Grants. A budget of $18,850 is requested. This includes $6,000 for the acquisition, $12,600 for the fencing and $250 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure of roads and storm water drainage through a developed part of the City.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendations/Actions: It is recommended that the City Council; 1) Approve the Budget; 2) Approve the Real Estate Purchase Contract and 3) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ___ day of _____, 2010 by and between Crestview Heights Development, LLC, a Kansas Corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and the City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient permanent easement for road right-of-way, the following described real property situated in Sedgwick County, Kansas, to-wit:

   The South 20 feet of the north 60 feet of that part of the East Half of the Northwest Quarter of Section 34, Township 27 South, Range 2 East of the 6th PM, Sedgwick County, Kansas described as beginning at the Northwest corner of said East Half, thence S89°42'55"E along the north line of said East Half, 485.92 feet; thence S00°17'05"W, 60 feet; thence S37°50'27"W, 796.96 feet to the west line of said East Half, thence N00°16'22"E along said west line, 691.80 feet to the place of beginning.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Eighteen Thousand Six Hundred Dollars ($18,600) in the manner following to-wit: cash at closing

3. A title insurance company's commitment to insure or a complete abstract of title certified to date, to the above described real property, showing a merchantable title vested in the seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to the Office of Property Management for the City of Wichita for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time, but not to exceed thirty (30) days after said Title Evidence has been examined in which to correct any defects in title. If defects in title are not corrected to Buyer's satisfaction, Buyer, at Buyer's option, may cancel this contract. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.

6. The Seller further agrees to convey the above-described premises in the same condition as it now is, reasonable wear and tear accepted. Seller hereby agrees to remove the fence from the right-of-way, as described in paragraph 1 above, within sixty (60) days from

closing.

7. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.

8. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before February 12, 2010 subject to the conditions of Item 11 below.

9. Possession to be given to Buyer at closing

10. Closing costs shall be paid 100% by Buyer and 0% by Seller.

11. Site Assessment

A. At any time prior to the closing of this agreement, Buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, Buyer shall have the right to void this agreement upon notice to Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to Paragraph A above. If a site assessment is completed after the closing date set herein, then Buyer and Seller shall close or Buyer shall advise Seller that this agreement is being voided pursuant to said paragraph within ten (10) days of the completion of the site assessment. Buyer shall, if Buyer determines a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment after this agreement is executed by all parties.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:
CRESTVIEW HEIGHTS DEVELOPMENT, LLC:

Steve Miller, _____

Travis Littlejohn, _____

BUYER:
By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____

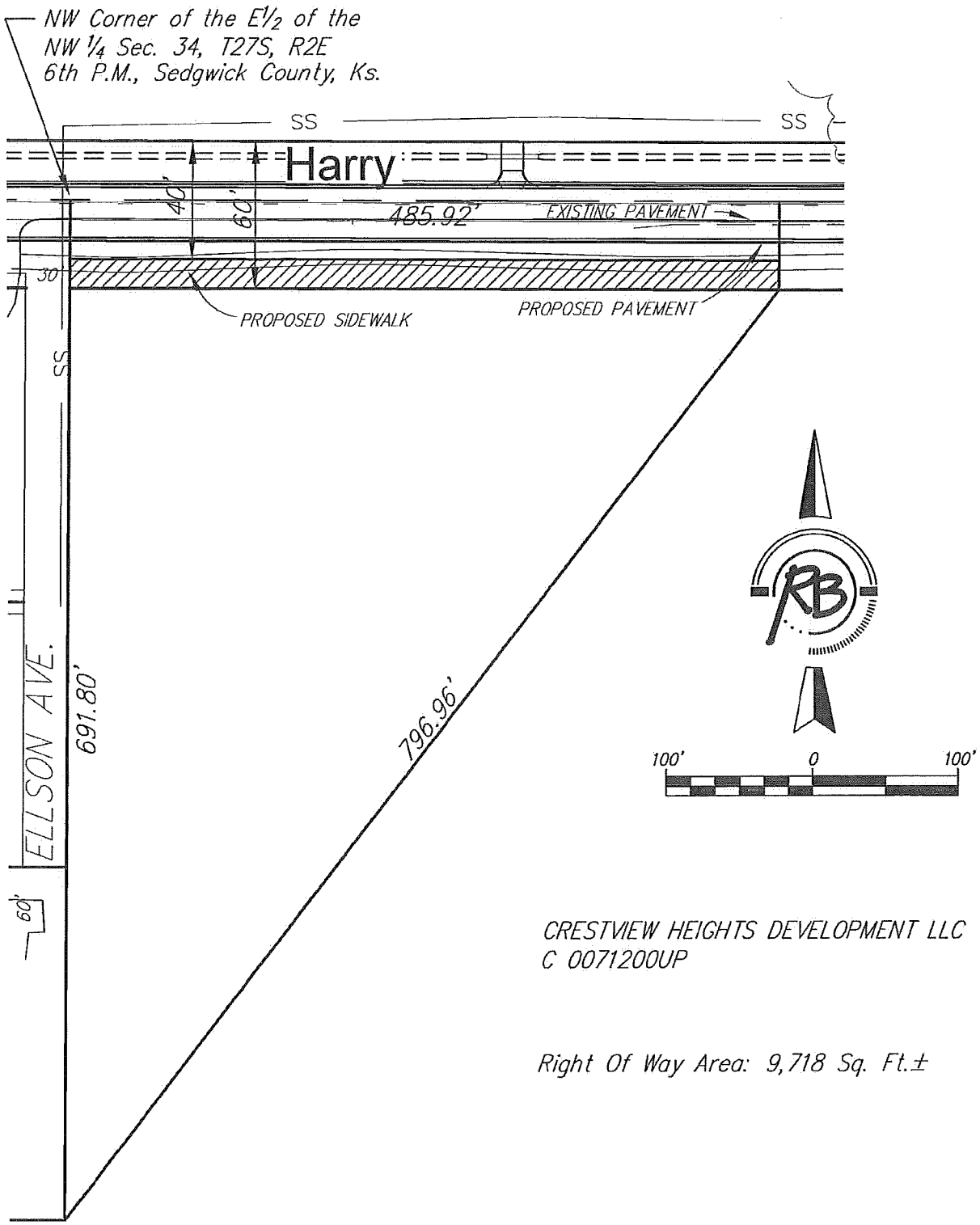
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

RIGHT OF WAY EXHIBIT "A"



CRESTVIEW HEIGHTS DEVELOPMENT LLC
C 0071200UP

Right Of Way Area: 9,718 Sq. Ft.±

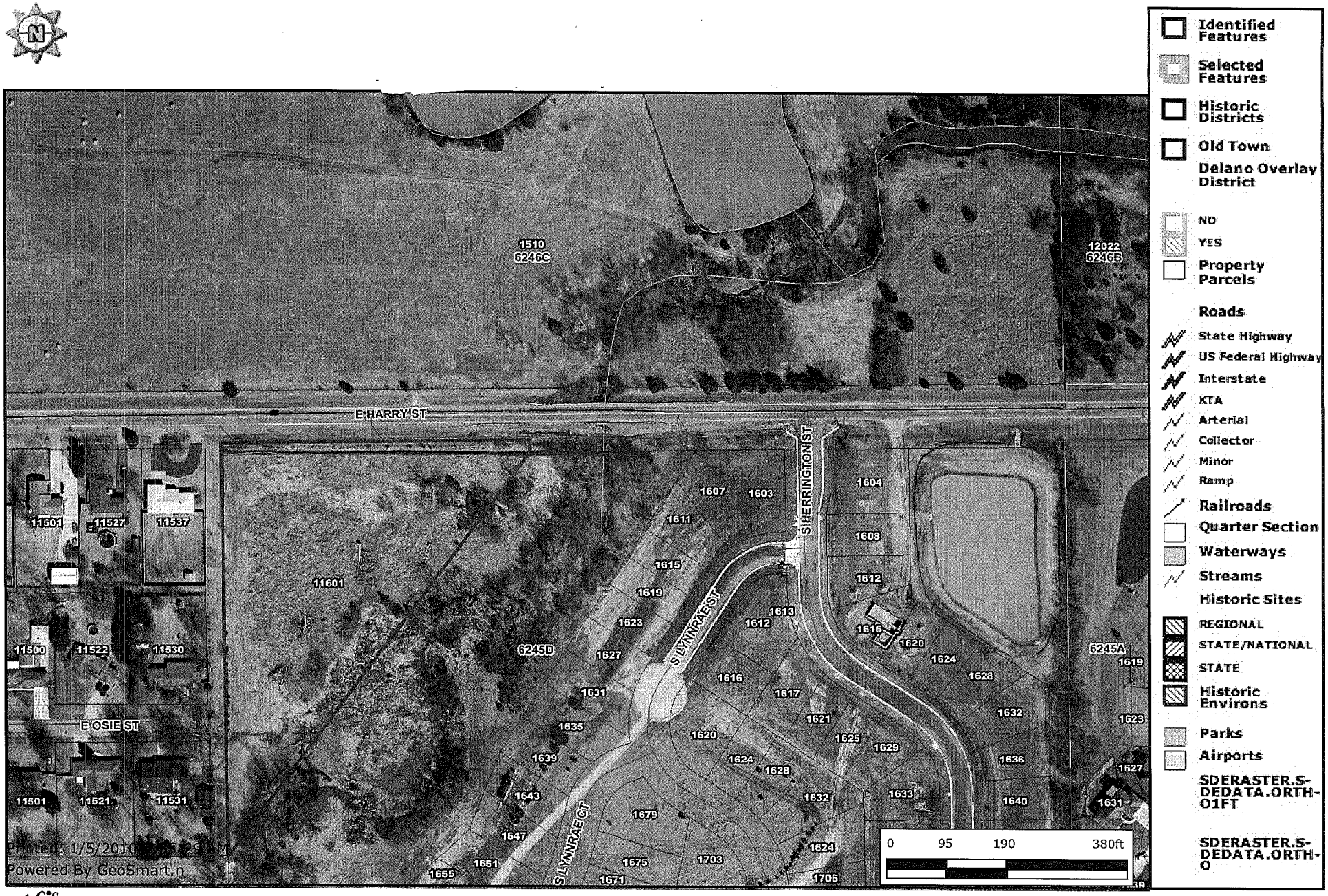
Ruggles & Bohm, P.A.
Engineering, Surveying, Land Planning
924 North Main
Wichita, Kansas 67203
www.rbkansas.com
(316) 264-8008
(316) 264-4621 fax
E-mail: info@rbkansas.com

3241T

C 0071200UP Right of Way

The south 20.00 feet of the north 60.00 feet of that part of the East Half of the Northwest Quarter of Section 34, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as beginning at the Northwest corner of said East Half, thence S89°42'55"E along the north line of said East Half, 485.92 feet; thence S00°17'05"W, 60.00 feet; thence S37°50'27"W, 796.96 feet to the west line of said East Half, thence N00°16'22"E along said west line, 691.80 feet to the place of beginning,

WILLIAM K. CLEVENGER
LICENSED
LS-1437
11/19/09
KANSAS
LAND SURVEYOR



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.

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Land along the Northeast Corner of 117th Street North and 119th Street West for the Integrated Local Water Supply Plan (County)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 3, 1993, the City Council approved the Water Supply Plan prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000, City Council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project. The groundwater recharge includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, transferred to and stored in the aquifer. The recovery and use of this water will meet future demands for the City of Wichita. The proposed acquisition at the northeast corner of 117th Street North and 119th Street West is for a five acre well site. The parent tract is 76 acres in size and is currently in agricultural production. No improvements will be impacted as a result of the project.

Analysis: The five acre site will be owned and maintained by the City. The seller has agreed to convey the necessary land for the estimated market value offer of $16,400 (or $3,280 an acre) for the well site.

Financial Considerations: A budget of $17,900 is requested; this includes $16,400 for the acquisition, $1,500 for title work, title insurance, closing costs and administrative fees. Funding for this project is included in the Capital Improvement Plan (CIP) in W-549, Water Supply Plan Phase III, which has an available funding of over $7.6 million

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the contract as to form.

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

Attachments: Real estate purchase agreement, tract map and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ___ day of _____, 2010 by and between Wayne L. and Dorothy L. Hall, husband & wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and City of Wichita, KS, a Municipal Corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient Statutory Warranty Deed of the following described real property, situated in Sedgwick County, Kansas, to wit:

As described: The West 466.69 feet of the South 466.69 feet of the Southwest Quarter of Section Six (6), Township Twenty-five (25) South, Range One (1) West of the Sixth Principal Meridian, Sedgwick County, Kansas. Said tract contains 5.0 acres, more or less, including road right-of-way.

2. The Buyer hereby agrees to purchase and pay to the Seller the sum of Sixteen Thousand Four Hundred Dollars and No Cents ($16,400.00) in the manner following, to-wit: cash at closing, which sum the Seller agrees is adequate compensation for such conveyance to Buyer of the above described real property, any and all damages including but not limited to severance, crops exceeding current crop, drainage and fencing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the Seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before January 29,2010.

6. The Seller further agrees to convey the above described premises with all the improvements located thereon and deliver possession of the same in the same condition as they are now, reasonable wear and tear excepted.

7. Possession to be given to Buyer on date of closing.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer. Buyer will pay 100% closing costs.

9. Seller hereby agrees that damages arising, if any, to the remainder property during

construction are to be addressed by filing a claim with the Buyer, City of Wichita, Kansas, City Clerk's Office. 455 North Main, Wichita, KS 67202. (316)268-4529.

10. Site Assessment

A. At any time prior to closing of this Agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, the Buyer shall have the right to void this agreement upon notice to the Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. The Buyer or its agents shall have the right, without the obligation, to enter upon the property prior to closing to undertake an environmental site assessment or any other inspection of the property at the Buyer's sole expense.

C. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to this paragraph. If a site assessment cannot be completed prior to the closing date set herein, then the Buyer and Seller shall, unless Buyer chooses to void this agreement, close within ten (10) days of the completion of such site assessment. The Buyer shall, if Buyer determines that a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment.

11. Buyer agrees to indemnify and hold harmless Seller from any and all claims for personal injury and/or property damage resulting from any and all claims, expenses, suits or other costs relating to Buyer's occupancy of the subject property prior to closing. Buyer's occupancy of the subject property prior to closing shall be completely at the risk of Buyer and Seller shall bear no responsibility whatsoever for the actions of Buyer and/or its contractors or subcontractors for matters related to such occupancy.

12. Paragraphs 9 and 11 shall survive the closing.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Wayne L. Hall, husband

Dorothy L. Hall, wife

BUYER:

Carl Brewer, Mayor

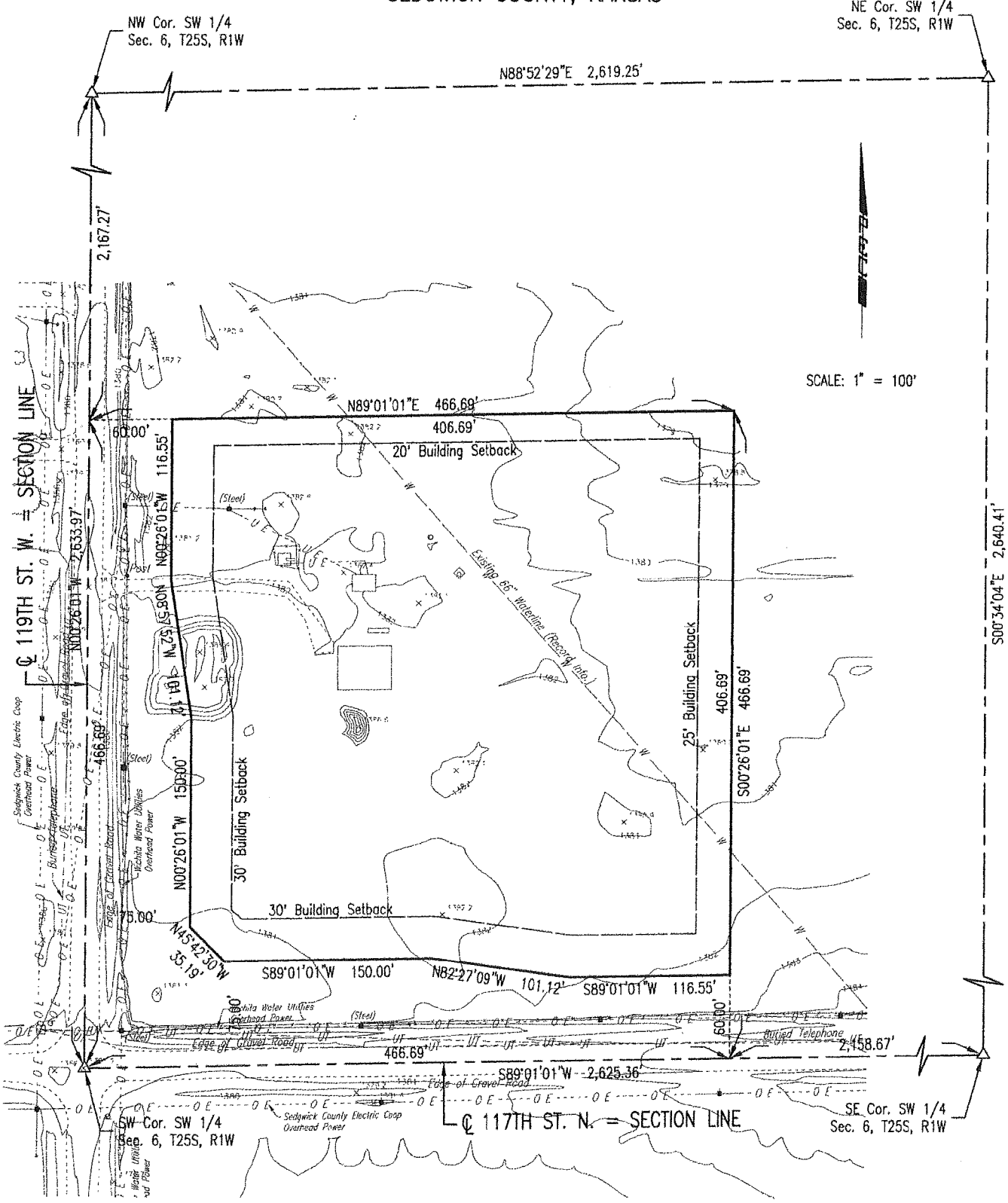
ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

ASR M-34
EXHIBIT TRACT MAP
SEDGWICK COUNTY, KANSAS



Professional Engineering Consultants, P.A.
303 S. TOPEKA • WICHITA, KANSAS 67202
316-262-2691 • FAX 316-262-3003

Legal for ASR M-34 Site

The West 466.69 feet of the South 466.69 feet of the Southwest Quarter of Section Six (6), Township Twenty-five (25) South, Range One (1) West of the Sixth Principal Meridian, Sedgwick County, Kansas. Said tract contains 5.0 acres, more or less, including existing road right-of-way.

07685-004

117th N and 119th W

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.

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Land in the Southeast Quarter of Section 8, Township 24 South, Range 2 West of the 6th Principal Meridian, Harvey County for the Integrated Local Water Supply Plan (Harvey County)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 3, 1993, the City Council approved the Water Supply Plan prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000, City Council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project. The groundwater recharge includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, transferred to and stored in the aquifer. The recovery and use of this water will meet future demands for the City of Wichita. From the land in the Southeast Quarter of Section 8, Township 24 South, Range 2 West, the City requires a pipeline easement and temporary construction easement to serve a well site in the northwest portion of said tract. The proposed easement is 33 feet wide and consists of 1.85 acres. The temporary is made up of 2.76 acres. The portion of the property impacted by the easements is used for agricultural purposes. Other than crops, no other improvements are impacted as a result of the taking.

Analysis: The seller has agreed to convey the necessary permanent and temporary easement for the estimated market value offer of $10,089, or $1,277 an acre for the 1.85 acre permanent easement and $511 an acre for the 2.76 acre temporary easement. $1,706 was allocated for crop damages and $4,610 to laser level the easement area after construction.

Financial Considerations: A budget of $11,089 is requested; this includes $10,089 for the acquisition, $1,000 for title work, title insurance, closing costs and administrative fees. Funding for this project is included in the Capital Improvement Plan (CIP) in W-549, Water Supply Plan Phase III, which has an available funding of over $7.6 million

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the contract as to form.

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

Attachments: Real estate purchase agreement, tract map and area map.

EASEMENT PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ___ day of_____, 2009 by and between Kenneth J. Koehn, Husband and Laura Koehn, Wife (as joint tenants) and Florene J. Koehn, a single person, party of the First Part, hereinafter referred to as "Seller," whether one or more, and City of Wichita, KS, a Municipal Corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient Permanent Easement and/or Temporary Construction Easement of the following described real property, situated in Harvey County, Kansas, to wit:

Permanent Easement (Pipeline – Parcel "A") All of the East 33.5 feet of the West 50 feet of the Southeast Quarter of Section Eight (8), Township Twenty-four (24) South, Range Two (2) West of the Sixth Principal Meridian, Harvey County, Kansas, EXCEPT road right-of-way, and also EXCEPT 1 acre in square form in the Northwest corner of said Southeast Quarter as conveyed to the City of Wichita by the Deed and Conveyance document recorded in Miscellaneous Book 146 at Page 23 in the records of Harvey County, Kansas. Said easement contains 1.85 acres, more or less.

Temporary Easement (Construction – Parcel "B") All of the East 50 feet of the West 100 feet of the Southeast Quarter of Section Eight (8), Township Twenty-four (24) South, Range Two (2) West of the Sixth Principal Meridian, Harvey County, Kansas. EXCEPT road right-of-way, and also EXCEPT 1 acre in square form in the Northwest corner of said Southeast Quarter as conveyed to the City of Wichita by the Deed and Conveyance document recorded in Miscellaneous Book 146 at Page 23 in the records of Harvey County, Kansas. Said easement contains 2.76 acres, more or less.

2. The Buyer hereby agrees to purchase and pay to the Seller the sum of Ten Thousand Eighty-nine Dollars and No Cents ($10,089.00) in the manner following, to-wit: cash at closing, which sum the Seller agrees is adequate compensation for such conveyance to Buyer of the above described real property, a temporary construction easement, any and all damages including but not limited to severance, crops at time of construction, crops for one year after initiation of construction, drainage and fencing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the Seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before December 18, 2009.

6. The Seller agrees to convey the above described premises with any and all personal property removed from within the easement area(s). Seller further agrees that any maintenance and use of said easement shall be in a manner that does not interfere with or endanger the construction, operations and maintenance of Buyer's improvements.

7. Possession to be given to Buyer on date of closing.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer. Buyer will pay 100% closing costs.

9 . In the event there are crop damages outside the easement area during construction or, crop damages resulting from the Buyer's other maintenance, operation, replacement or repairs to the pipeline, the Seller hereby agrees to file a claim with the City of Wichita, KS, City Clerk's Office, 455 North Main, Wichita, KS 67202, (316)268-4529.

10. Buyer and Seller hereby agree that Buyer, contractors and assigns will remove, store and reinstall topsoil removed from the easement corridor as a result of construction. Said topsoil, separate from bedding soil, will be temporarily stored within a temporary construction easement.

11. Buyer hereby agrees that the finished grade will match the existing grade as it currently exists upon completion of the project.

12. Site Assessment

A. At any time prior to closing of this Agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance or waste on the property, the Buyer shall have the right to void this agreement upon notice to the Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

B. The Buyer or its agents shall have the right, without the obligation, to enter upon the property prior to closing to undertake an environmental site assessment or any other inspection of the property at the Buyer's sole expense.

C. Provided, however, Buyer shall in no event be obligated to close before the completion of a site assessment made pursuant to this paragraph. If a site assessment cannot be completed prior to the closing date set herein, then the Buyer and Seller shall, unless Buyer chooses to void this agreement, close within ten (10) days of the completion of such site assessment. The Buyer shall, if Buyer determines that a site assessment is necessary, exercise good faith in commencing and diligently completing such site assessment.

13. Buyer agrees to indemnify and hold harmless Seller from any and all claims for personal injury and/or property damage resulting from any and all claims, expenses, suits or other costs relating to Buyer's occupancy of the subject property prior to closing. Buyer's occupancy of the subject property prior to execution shall be completely at the risk of Buyer and Seller shall bear no responsibility whatsoever for the actions of Buyer and/or its contractors or subcontractors for matters related to such occupancy.

14. Paragraphs 6, 9-11 and 13 shall survive the closing.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Kenneth J. Koehn, Husband
Joint Tenant

Laura Koehn, Wife
Joint Tenant

Florene J. Koehn, a single person

BUYER:

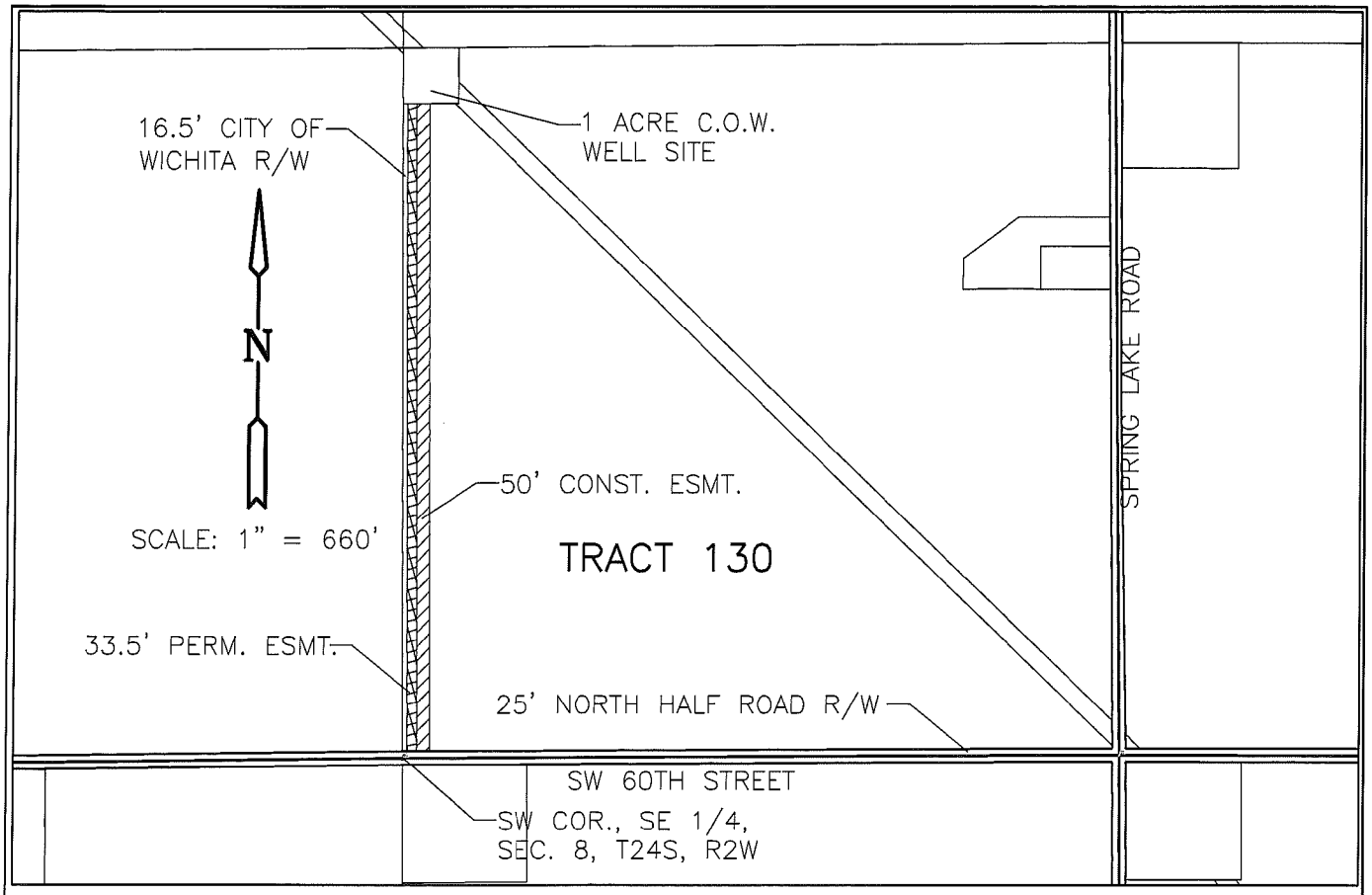
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law



EASEMENT:

All of the East 33.5 feet of the West 50 feet of the Southeast Quarter of Section Eight (8), Township Twenty-four (24) South, Range Two (2) West of the Sixth Principal Meridian, Harvey County, Kansas, EXCEPT road right-of-way, and also EXCEPT 1 acre in square form in the Northwest corner of said Southeast Quarter as conveyed to the City of Wichita by the Deed and Conveyance document recorded in Miscellaneous Book 146 at Page 23 in the records of Harvey County, Kansas. Said easement contains 1.85 acres, more or less.

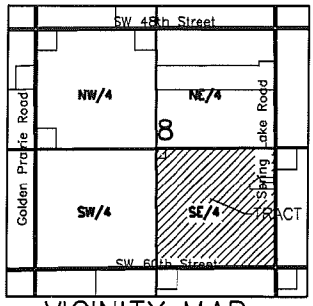
CONSTRUCTION EASEMENT:

All of the East 50 feet of the West 100 feet of the Southeast Quarter of Section Eight (8), Township Twenty-four (24) South, Range Two (2) West of the Sixth Principal Meridian, Harvey County, Kansas. EXCEPT road right-of-way, and also EXCEPT 1 acre in square form in the Northwest corner of said Southeast Quarter as conveyed to the City of Wichita by the Deed and Conveyance document recorded in Miscellaneous Book 146 at Page 23 in the records of Harvey County, Kansas. Said easement contains 2.76 acres, more or less.

LEGEND:

Construction Easement

Easement



VICINITY MAP

OWNER:

KOEHN, KENNETH J. & LAURA;
KOEHN, FLORENE J.

CDM
Camp Dresser & McKee
340 Riverview, Ste. 130
Wichita, KS 67203
Tel: (316) 686-6709
consulting • engineering • construction • operations

POE & ASSOCIATES, INC.
CONSULTING ENGINEERS

THIS TRACT EXHIBIT DOES NOT CONSTITUTE A BOUNDARY SURVEY PLAT

GOLDEN PRAIRIE TRANSMISSION MAIN		
PROJECT NAME		
TRACT 130		
SHEET TITLE		
JGP	*MLT*	*WPF*
DESIGN BY:	DRAWN BY:	CHECKED BY:
SEPTEMBER 2009	*788014*	*1 / 1*
DATE	JOB NO.	SHEET/OF

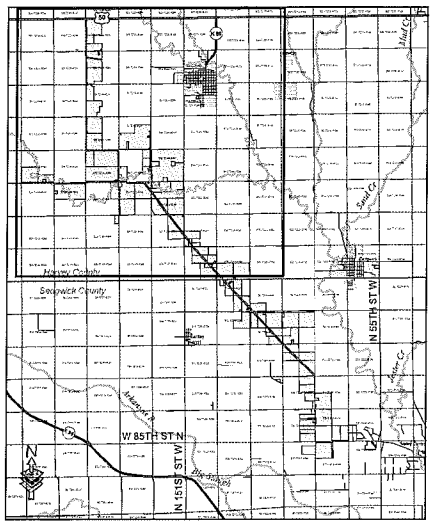
ASR
PRESERVING OUR WATER
...OUR FUTURE

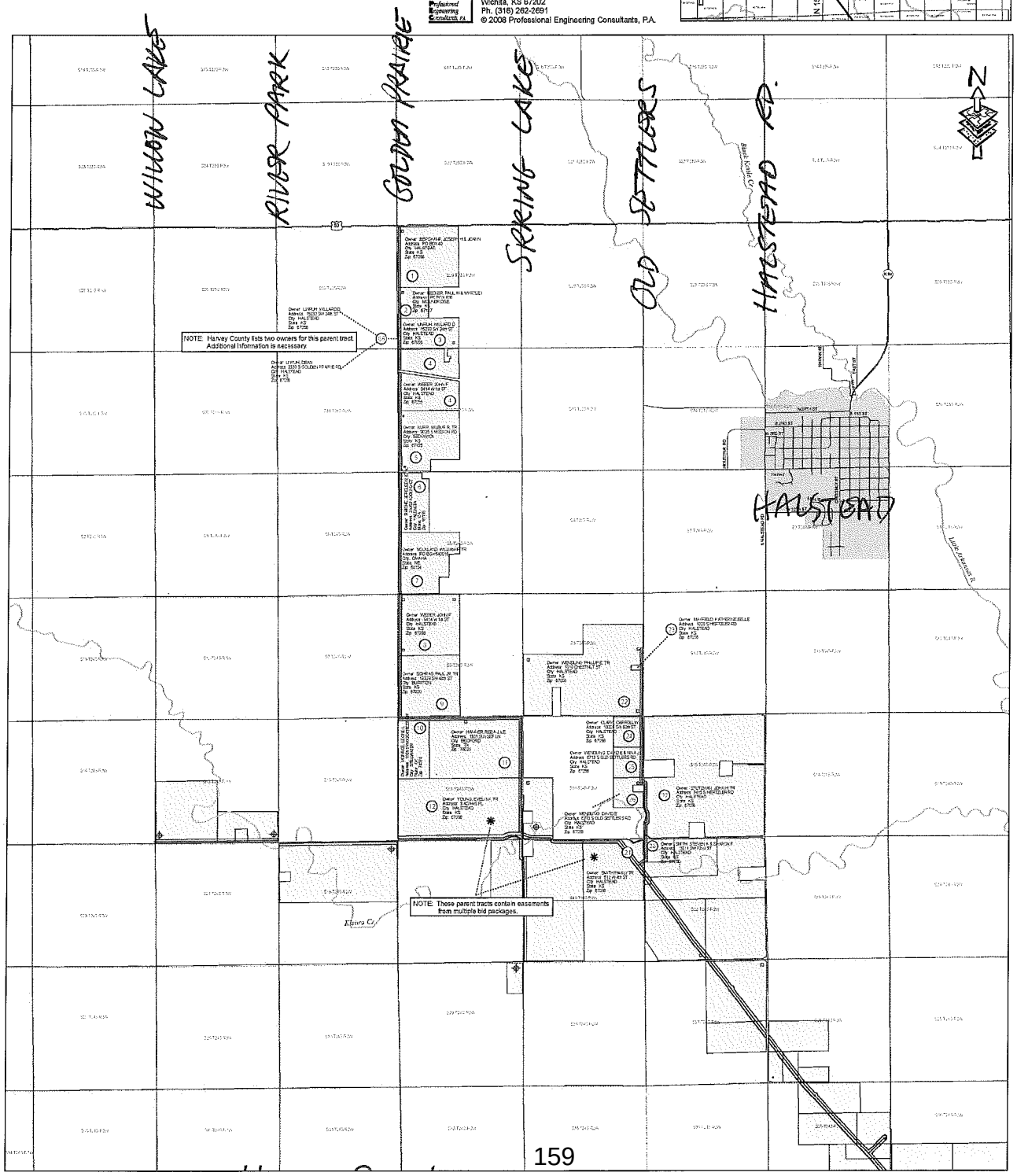
BID PACKAGE 3
Property Acquisition Map

Legend
- Section Lines
- City Limits
- County Boundaries
- Streets and Roads
- Highways
- Rivers and Streams
- Parent Tracts
- Bid Package 1 Easements
- Bid Package 2 Easements
- Bid Package 3 Easements
- Well Location
- RR ## Well ID Number
- # Parent Tract ID Number

Q:\2007\07685\Brent\Project GIS\ASR Bid Package2 Easements.mxd
Last saved 2/2/2009 by SAD
NAD_1983_StatePlane_Kansas_South_FIPS_1502_Feet
Projection: Lambert_Conformal_Conic

Professional Engineering Consultants, P.A.
303 S. Topeka
Wichita, KS 67202
Ph. (316) 262-2691
© 2008 Professional Engineering Consultants, P.A.





CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of Land at 13221 West 125th Street North for the Integrated Local Water Supply Plan (County)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 3, 1993, the City Council approved the Water Supply Plan prepared by Burns & McDonnell/MKEC Engineering Consultants. The Plan identified cost-effective water resource projects to meet the City's future water needs. On October 10, 2000, City Council approved the projects and implementation of the plan. One portion of the Water Supply Plan is the groundwater recharge project. The groundwater recharge includes the capture of above base flow water (water which is generated from rainfall runoff above the base river flow) in the Little Arkansas River, transferred to and stored in the aquifer. The recovery and use of this water will meet future demands for the City of Wichita. The proposed acquisition at 13221 West 125th Street North consists of a 0.54 acre pipeline easement together with a 0.69 acre temporary easement for construction.

Analysis: The 5.69 acre site is currently zoned for residential and improved with a mobile home. The improvements are impacted as a result of the project and will be relocated to another location within the site. Some fencing and five mature trees are also impacted. The owner has agreed to accept the estimated market offer of $1,738 for the easement and construction easement together with $20,165 for the reestablishment of the home. The permanent easement was valued at $1,150, or $2,130 an acre; the temporary easement at $588, or $852 an acre; trees at $2,500; fencing at $240. The other $17,425 for moving the mobile home, setting a new concrete pad, reestablishing the septic field and electrical and plumbing work is supporting by bids to perform the work.

Financial Considerations: A budget of $22,728 is requested; this includes $21,903 for the acquisition, $825 for title work, title insurance, closing costs and administrative fees. Funding for this project is included in the Capital Improvement Plan (CIP) in W-549, Water Supply Plan Phase III, which has an available funding of over $7.6 million

Goal Impact: The acquisition of this parcel is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the contract as to form.

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

Attachments: Real estate purchase agreement, tract map, aerial map and area map.

EASEMENT PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 14 day of December 2009 by and between Marvin B. Neises, husband and Kathryn E. Neises, wife, party of the First Part, hereinafter referred to as "Seller," whether one or more, and City of Wichita, KS, a Municipal Corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient Permanent Easement and/or Temporary Construction Easement of the following described real property, situated in Sedgwick County, Kansas, to wit:

Permanent Easement (Pipeline – Parcel "A"): A 60.5 feet wide strip of land lying on the left side (northeasterly side) of a line described as: Commencing at the northeast corner of the West half of the Northwest Quarter of Section 1 , Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S89^{0}34'42"W, 269.77 feet along the north line of said West half; thence S00^{0}40'48"E, 92.64 feet parallel with the east line of said West half to the Point of Beginning; thence S42^{0}52'26"E, 401.65 feet to the Point of Termination, said point lying on the east line of the West half of said Northwest Quarter and lying S00^{0}40'48"E, 389.00 feet from the northeast corner of the West half of said Northwest Quarter. Said tract contains 0.54 acres, more or less, excluding road right of way.

The above easement adjoins the southwesterly side of an easement described in Condemnation Case No. 104,110 and recorded in Miscellaneous Book 150, Page 1.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the east line of the West half of said Northwest Quarter and on the west line of the east 267.77 feet of said West half.

Temporary Easement (Construction – Parcel "B"): A 75 feet wide strip of land lying on the right side (southwesterly side) of a line described as: Commencing at the northeast corner of the West half of the Northwest Quarter of Section 1 , Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S89^{0}34'42"W, 269.77 feet along the north line of said West half; thence S00^{0}40'48"E, 92.64 feet parallel with the east line of said West half to the Point of Beginning; thence S42^{0}52'26"E, 401.65 feet to the Point of Termination, said point lying on the east line of the West half of said Northwest Quarter and lying S00^{0}40'48"E, 389.00 feet from the northeast corner of the West half of said Northwest Quarter. Said tract contains 0.69 acres, more or less.

The sidelines of the above described strip of land are to be shortened or lengthened to form continuous lines and to terminate on the east line of the West half of said Northwest Quarter and on the west line of the east 267.77 feet of said West half.

2. The Buyer hereby agrees to purchase and pay to the Seller the sum of Twenty-one Thousand Nine Hundred Three Dollars and No Cents ($21,903.00) in the manner following, to-wit: cash at closing, which sum the Seller agrees is adequate compensation for such conveyance to Buyer of the above described real property, a temporary construction easement, any and all damages including but not limited to severance, crops at time of construction, crops for one year after initiation of construction, drainage and fencing.

3. A complete abstract of title certified to date, or a title insurance company's commitment to insure, to the above described real property, showing a merchantable title vested in the Seller, subject to easements and restrictions of record is required. The Title Evidence shall be sent to Property Management Division for examination by the Buyer as promptly and expeditiously as possible, and it is understood and agreed that the Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.

4. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before December 18, ~~2008~~. 2009

6. The Seller agrees to convey the above described premises with any and all personal property removed from within the easement area(s). Seller further agrees that any maintenance and use of said easement shall be in a manner that does not interfere with or endanger the construction, operations and maintenance of Buyer's improvements.

7. Possession to be given to Buyer on date of closing.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by Seller and 100% by Buyer. Buyer will pay 100% closing costs.

9 . In the event there are crop damages outside the easement area during construction or, crop damages resulting from the Buyer's other maintenance, operation, replacement or repairs to the pipeline, the Seller hereby agrees to file a claim with the City of Wichita, KS, City Clerk's Office, 455 North Main, Wichita, KS 67202, (316)268-4529.

10. Buyer and Seller hereby agree that Buyer, contractors and assigns will remove, store and reinstall topsoil removed from the easement corridor as a result of construction. Said topsoil, separate from bedding soil, will be temporarily stored within a temporary construction easement.

11. Buyer hereby agrees that the finished grade will match the existing grade as it currently exists upon completion of the project.

12. Site Assessment

A. At any time prior to closing of this Agreement, the buyer shall have the right to conduct or cause to be conducted an environmental site assessment and/or testing on the property. If an environmental audit or test reveals the presence of a hazardous substance or waste, as defined by federal or state law, or that there has been a spill or discharge of a hazardous substance

or waste on the property, the Buyer shall have the right to void this agreement upon notice to the Seller, in which event neither party shall be under any further obligation to the other, with the exception that Seller shall return to Buyer any deposit made hereunder.

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14. Paragraphs 6, 9-11 and 13 shall survive the closing.

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER:

Marvin B. Neises

Marvin B. Neises, husband

Kathryn E. Neises

Kathryn E. Neises, wife

BUYER:

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

EASEMENT
A 60.5 feet wide strip of land lying on the left side (northeasterly side) of a line described as: Commencing at the northeast corner of the West half of the Northwest Quarter of Section 1, Township 25 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of S89°34'42"W, 269.77 feet along the north line of said West half; thence S00°40'48"E, 92.64 feet parallel with the east line of said West half to the Point of Beginning; thence S42°52'26"E, 401.65 feet to the Point of Termination, said point lying on the east line of the West half of said Northwest Quarter and lying S00°40'48"E, 389.00 feet from the northeast corner of the West half of said Northwest Quarter. Said tract contains 0.54 acres, more or less, excluding road right of way.

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CONSTRUCTION EASEMENT
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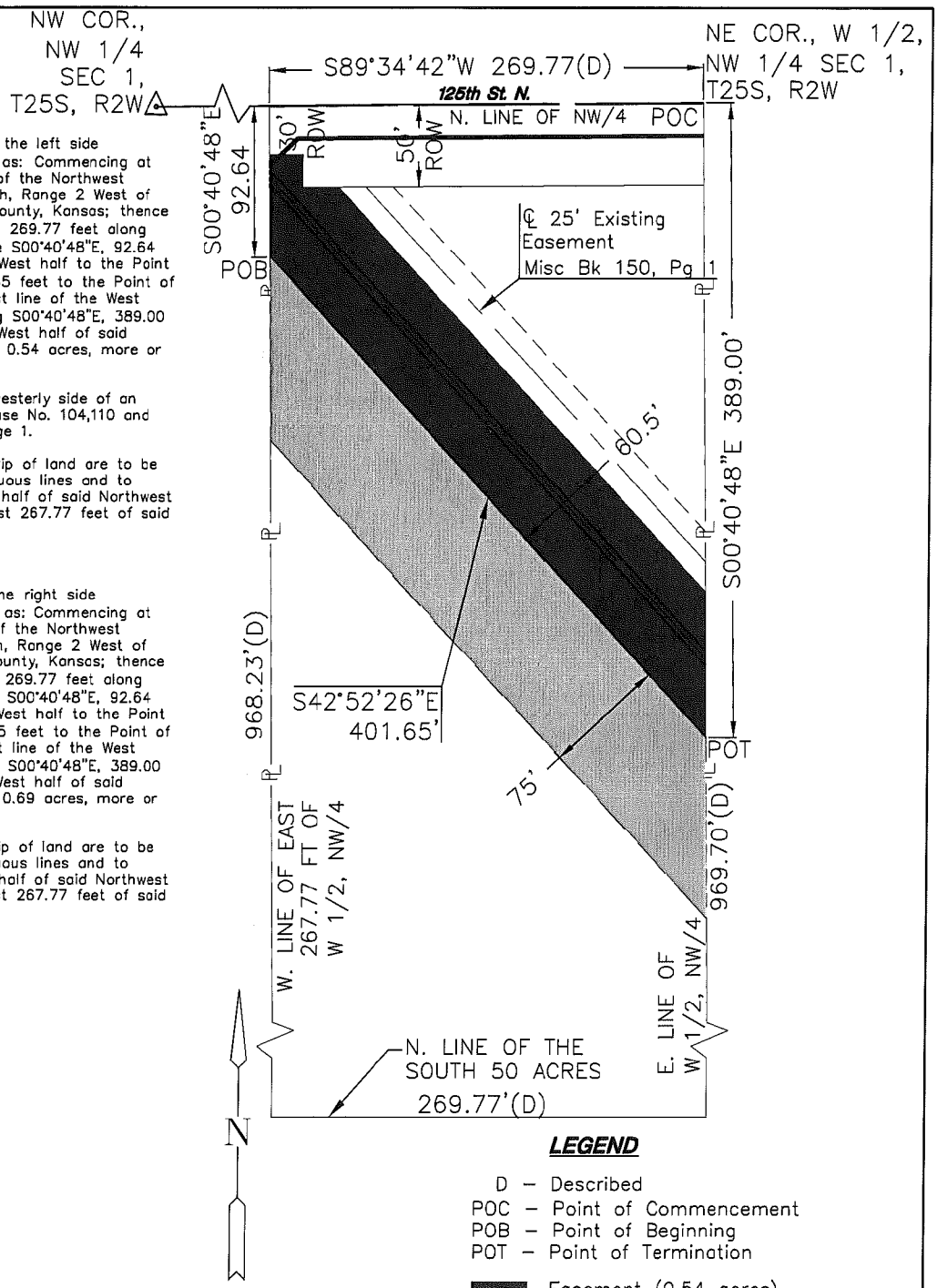


LEGEND

D – Described
POC – Point of Commencement
POB – Point of Beginning
POT – Point of Termination

Easement (0.54 acres) Excluding road right of way.

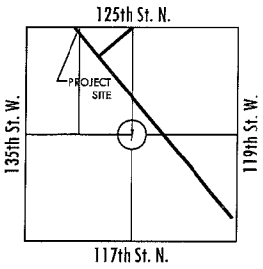
Construction Easement (0.69 acres)

Proposed Water Line

SCALE: 1" = 100'

OWNER:
Weber, Alan J. & Cheri A.
Neises, Marvin B. & Kathryn E.
13221 W. 125th ST. N.

I:\MAP\2008\08248\DWG APRIL 2009\TRACT MAPS\46.DWG



VICINITY MAP

ASR

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

MKEC ENGINEERING CONSULTANTS, INC.

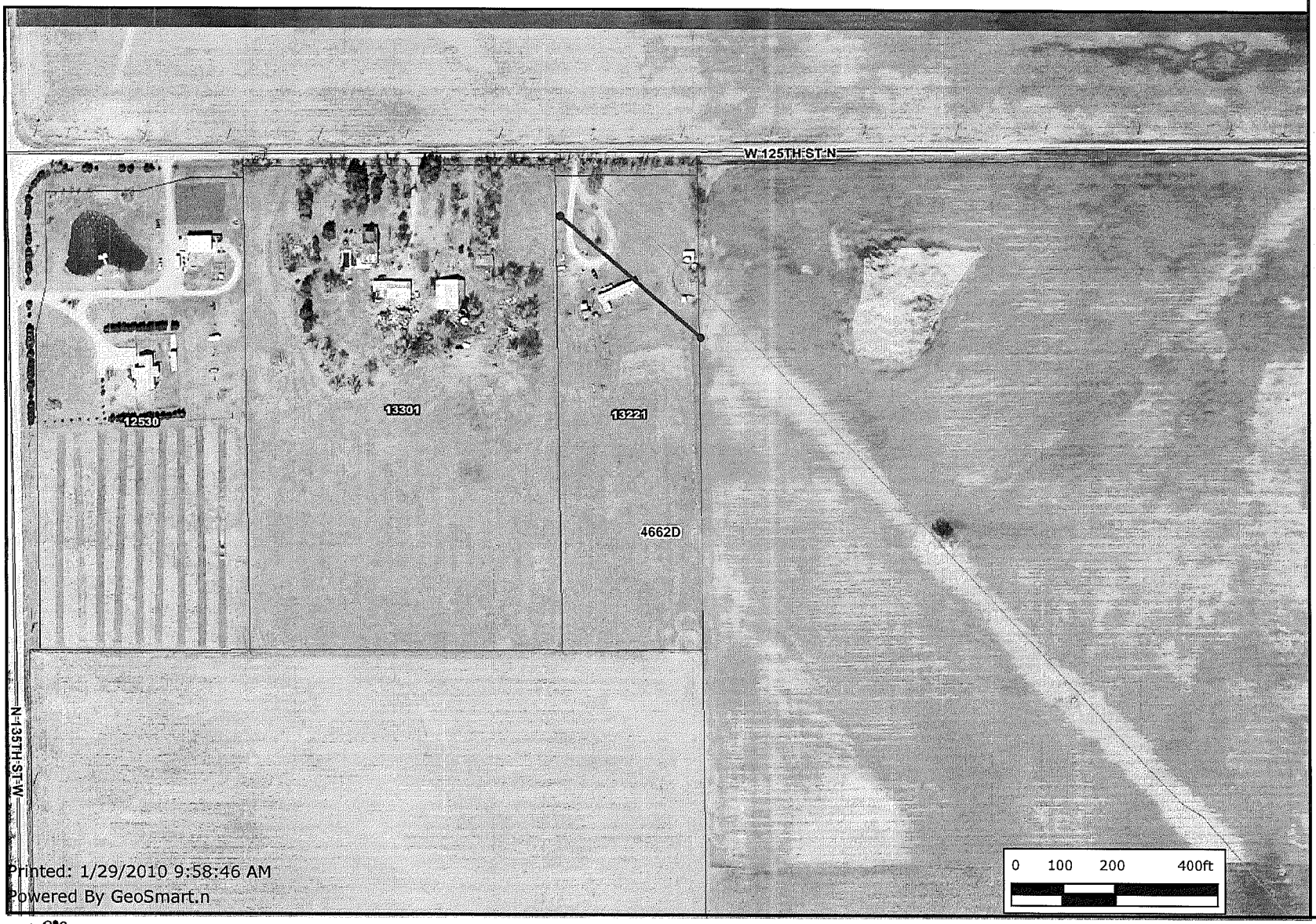
THIS TRACT EXHIBIT DOES NOT CONSTITUTE A BOUNDARY SURVEY PLAT

DIAGONAL TRANSMISSION MAIN AND RIVER INTAKE LINE
PROJECT NAME

TRACT 46
SHEET TITLE

DFL	DSN/AAM/DM	JCM
DESIGN BY:	DRAWN BY:	CHECKED BY:
APRIL 2009	08248	1 / 1
DATE	JOB NO.	SHEET/OF

13221 W 125th Street North



Historic Districts
Old Town
Delano Overlay District
NO
YES
Property Parcels
Roads
State Highway
US Federal Highway
Interstate
KTA
Arterial
Collector
Minor
Ramp
Railroads
Quarter Section
Waterways
Streams
Historic Sites
REGIONAL
STATE/NATIONAL
STATE
Historic Environs
Parks
Airports
SDERASTER.S-DEDATA.ORTH-O1FT
SDERASTER.S-DEDATA.ORTH-O
City Limits
Andale
Bel Aire

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.

ASR
PRESERVING OUR WATER
...OUR FUTURE

BID PACKAGE 1
Property Acquisition Map

Legend

- Section Lines
- City Limits
- County Boundaries
- Streets and Roads
- Highways
- Rivers and Streams
- Parent Tracts
- Bid Package 1 Easements
- Bid Package 2 Easements
- Bid Package 3 Easements
- Well Location
- RR ## Well ID Number
- (#) Parent Tract ID Number

O:\2007\07685\Brent\Project GIS\ASR Bid Package2 Easements.mxd
Last saved 2/2/2009 by SAD
NAD_1983_StatePlane_Kansas_South_FIPS_1502_Feet
Projection: Lambert_Conformal_Conic

Professional Engineering Consultants, P.A.
303 S. Topeka
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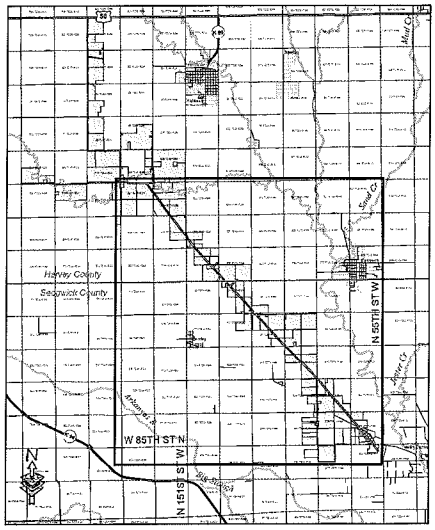
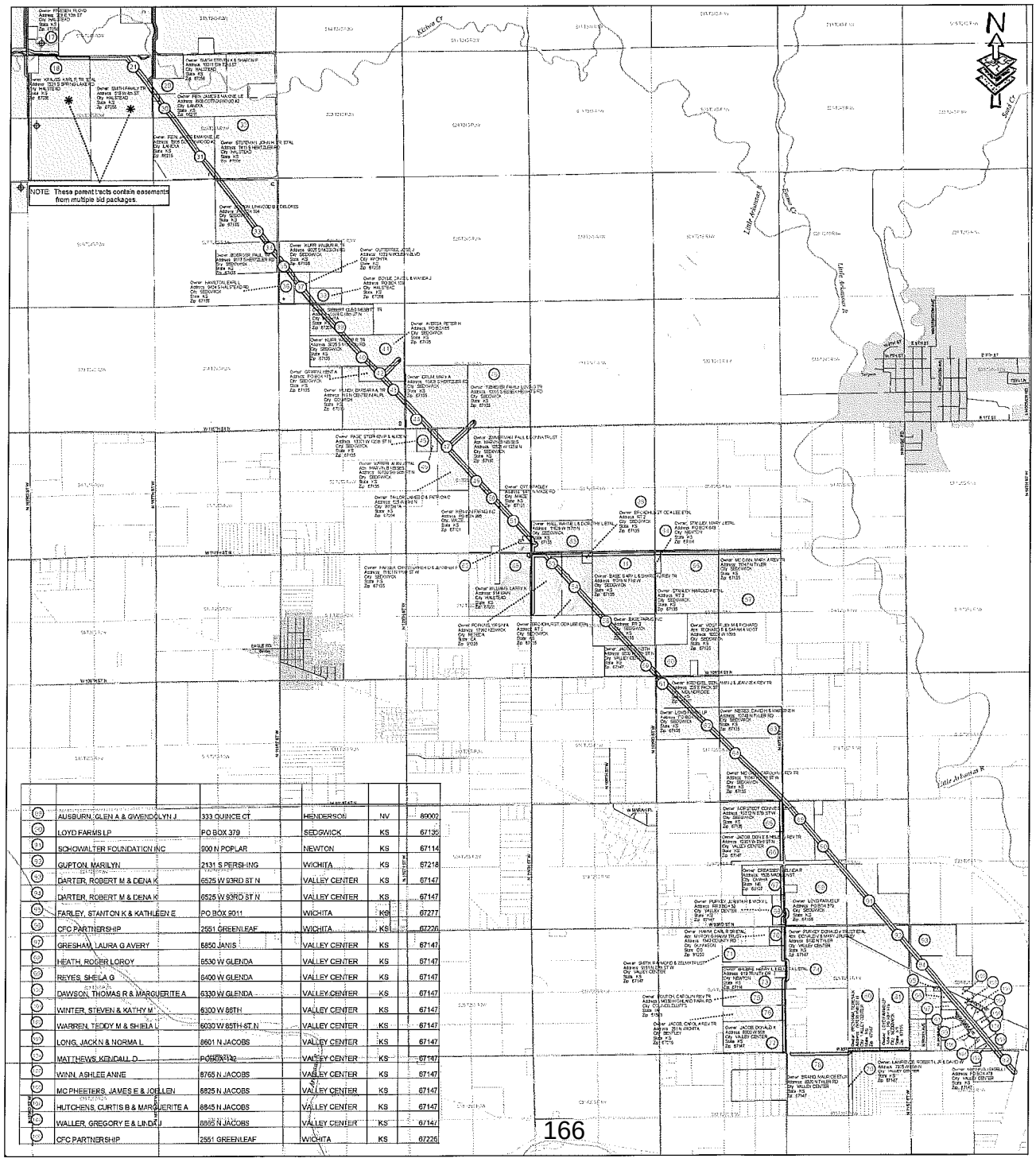
Ph. (316) 262-2691
© 2008 Professional Engineering Consultants, P.A.





23	AUSBURN, GLEN A & GWENDOLYN J	333 QUINCE CT	HENDERSON	NV	89002
24	LOYD FARMS LP	PO BOX 379	SEDGWICK	KS	67135
31	SCHOWALTER FOUNDATION INC	900 N POPLAR	NEWTON	KS	67114
32	GUPTON, MARILYN	2131 S PERSHING	WICHITA	KS	67218
33	DARTER, ROBERT M & DENA K	6525 W 93RD ST N	VALLEY CENTER	KS	67147
34	DARTER, ROBERT M & DENA K	6525 W 93RD ST N	VALLEY CENTER	KS	67147
35	FARLEY, STANTON K & KATHLEEN E	PO BOX 9011	WICHITA	KS	67277
36	CFC PARTNERSHIP	2551 GREENLEAF	WICHITA	KS	67226
37	GRESHAM, LAURA G AVERY	5850 JANIS	VALLEY CENTER	KS	67147
38	HEATH, ROGER LOROY	5530 W GLENDA	VALLEY CENTER	KS	67147
39	REYES, SHEILA G	5400 W GLENDA	VALLEY CENTER	KS	67147
40	DAWSON, THOMAS R & MARGUERITE A	5330 W GLENDA	VALLEY CENTER	KS	67147
41	WINTER, STEVEN & KATHY M	5300 W 85TH	VALLEY CENTER	KS	67147
42	WARREN, TEDDY M & SHIELA L	5030 W 85TH ST N	VALLEY CENTER	KS	67147
43	LONG, JACK N & NORMA L	8601 N JACOBS	VALLEY CENTER	KS	67147
44	MATTHEWS, KENDALL D	PO BOX 142	VALLEY CENTER	KS	67147
45	WINN, ASHLEE ANNE	8765 N JACOBS	VALLEY CENTER	KS	67147
46	MC PHEETERS, JAMES E & JOELLEN	8825 N JACOBS	VALLEY CENTER	KS	67147
47	HUTCHENS, CURTIS B & MARGUERITE A	8845 N JACOBS	VALLEY CENTER	KS	67147
48	WALLER, GREGORY E & LINDA J	8865 N JACOBS	VALLEY CENTER	KS	67147
49	CFC PARTNERSHIP	2551 GREENLEAF	WICHITA	KS	67226

DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk

FROM: Gary E. Rebenstorf, Director of Law

SUBJECT: Report on Claims for January 2010

DATE: February 3, 2010

The following claims were approved by the Law Department during the month of January 2010.

Andrews, Mildred	$ 5,358.60* **
Arinwine, Michael	$ 9,000.00* **
Bluestem Properties	$ 830.00
Caywood, Karen	$ 179.00
Enterprise Rent-A-Car	$ 1,595.09
Kansas Gas Service	$ 1,085.68**
Nash, Jacques	$ 9,000.00* **

*City Manager Approval - 3
** Settled for lesser amount than claimed - 4

cc: Robert Layton, City Manager
Kelly Carpenter, Director of Finance

Senior Management Expenses
For the Month of November 2009

Employee by Department	Purpose	Amount
01-City Manager Staff		
Robert Layton, City Manager	PTI Board of Directors Meeting, Washington DC	$ -
Robert Layton, City Manager	National League of Cities, San Antonio TX	1,700.96
09-Housing & Community Services		
Mary K Vaughn, Director of Housing & Community Services	FY2010-2015 HUD Strategic Plan & Trans Initiative, St Louis MO	1,073.99
Brad Snapp, Assistant Director of Housing & Community Services	Kansas NAHRO 2009 Fall Conference, Lawrence KS	529.61
14-Environmental Services		
Kay Johnson, Director of Environmental Services	Kansas Environmental Education Conference, Lawrence KS	371.20
19-Airport		
Brad Christopher, Assistant Director of Airports	AAAE Airports & Rental Car Industry Workshop, Atlanta GA	1,653.75
Total		**$ 5,329.51**

Senior Management Expenses
For the Month of December 2009

Employee by Department	Purpose	Amount
10-Library		
Cynthia Berner-Harris, Director of Libraries	KLA Executive Committee Meeting - Topeka, KS	$ 141.51
Cynthia Berner-Harris, Director of Libraries	Library Journal "Going Green" Design Institute - Dallas, TX	878.45
13-Public Works		
Jim Armour, City Engineer	ACPA 46th Annual Meeting - Orlando, FL	972.90
Total		**$ 1,992.86**

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Cheney Lake Watershed Staff Position - Memorandum of Understanding

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Memorandum of Understanding (MOU).

Background: Cheney Reservoir is one of Wichita's major sources of water, currently providing approximately 60-to-70 percent of Wichita's annual water supply. Since 1993, the City has participated in a program to encourage the implementation of projects that will reduce pollution and sedimentation entering the reservoir. Participation includes the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices in the watershed. On October 13, 1998, the City Council approved an MOU with the Citizens Management Committee (CMC), now incorporated as the Cheney Lake Watershed, Inc., to fund a public relations/education position to assist in the activities of the project and has annually renewed the MOU.

Analysis: The Cheney Watershed Improvements Project has been one of the most successful projects of its kind in the nation, having received several national awards. Over 2,300 projects have been completed in the watershed and staff believes this has resulted in a reduction in taste and odor events in the City's drinking water, plus a significant reduction in sediment entering the reservoir. The Kansas Department of Health and Environment (KDHE) reports load reductions from these practices during 2007 and 2009 at 2,261.1 lb. /yr. of phosphorus, 603.2 lb. /yr. of nitrogen, and 269.4 T. /yr. of sediment. Much credit for the success of the project can be attributed to the work of the CMC, composed of people living and working in the watershed who have worked hard to convince their neighbors that these improvements are good for both them and the City. The watershed above the reservoir covers a large area, over 500,000 acres in five counties.

The person funded through this MOU assists the CMC in executing many public relations and educational tasks. This public relations/education staff position has been very successful in increasing interest in the watershed project, increasing the number of projects completed in the watershed, and consequently, improving the water quality in the reservoir.

Financial Considerations: The cost for the staff position is $41,000. Through this MOU the City would agree to provide funds not to exceed $27,700 (67.5 percent), as well as $3,000 for other contractual expenses, subject to budget restrictions. The remaining $13,300 for the position will be obtained from a grant from the U.S. Environmental Protection Agency through the KDHE.

Funds are available in the Water Utilities 2010 Adopted Operations Budget, Cheney Watershed MOU, which has $118,000 allocated for this project. This is a reduction of $132,000 from the $250,000 budgeted in 2009 from the Capital Improvement Program (CIP) W-500, Cheney Watershed Protection Plan. It has been determined that this program no longer qualifies as a CIP expense and is now provided for in the Water Utilities Operations Budget.

Goal Impact: This will ensure efficient infrastructure by maintaining and optimizing public facilities and assets. Although the work occurs in the watershed above the reservoir, the intent is to improve the water quality and prolong the life of Cheney Reservoir.

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

Recommendations/Actions: It is recommended that the City Council: 1) approve the Memorandum of Understanding between the Cheney Lake Watershed, Inc. and the City of Wichita; and 2) authorize the necessary signatures.

Attachments: MOU with Cheney Lake Watershed, Inc.

Memorandum of Understanding
Between Cheney Lake Watershed, Inc.
And the City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River which enters Cheney Reservoir. The North Fork Ninnescah River, Cheney Lake Watershed; Citizen's Management Committee, incorporated as Cheney Lake Watershed, Inc., is responsible for implementing the Watershed Management Plan accepted by the City of Wichita and the Kansas Department of Health and Environment. It is the intent of this agreement to supply funds to provide contractual services needed to enhance and increase watershed improvement.

Personnel Services

The duties and responsibilities of this position will include:

- Assisting the Citizen's Management Committee (CMC) with small group meetings.
- Make follow-up one-on-one contacts, in consultation with the CMC, with producers expressing an interest in implementing Best Management Practices.
- Collect baseline information from producers to establish profitability with environmental soundness using different cropping systems.
- Coordinate with local news media, issue news releases and/or feature articles that highlight watershed projects, especially those that help accomplish watershed goals.
- Assist in preparation of grant requests necessary to assist in funding of projects associated with the watershed improvement management plan.

The City of Wichita agrees to provide funds, not to exceed $27,700, in year 2010 towards the cost of personnel services and mileage associated with this position.

The Cheney Lake Watershed, Inc. will be responsible for hiring the person filling this position and for supervisory control of the person. Cheney Lake Watershed, Inc. will invoice the city of Wichita for the cost of this position on a regular basis, and the city of Wichita will reimburse Cheney Lake Watershed, Inc. for those expenses.

Other Contractual Expenses

The City of Wichita agrees to provide funds, not to exceed $3,000, in the year 2010 toward the cost of other contractual expenses of Cheney Lake Watershed, Inc.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for contractual expenses incurred in 2010 and the City of Wichita will reimburse Cheney Lake Watershed, Inc for those expenses.

It is agreed by both parties that this agreement can be modified with the written consent of each party and this agreement can be terminated with 60 days written notice of either party.

Cheney Lake Watershed, Inc.	City of Wichita
11-2-09	
Date	Date
	Attest:_____

Approved as to form this _____day of _____,2009

_____City Attorney

Working Agreement for Water Quality Projects

Between

Cheney Lake Watershed, Inc.

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Incentive Payments for Conversion of Cropland to Perennial Grass: The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of $100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Cost of incentive payments to the City for FY 2010 will not exceed $80,000.00. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

Citizens' Management Committee Responsibilities

Citizens' Management Committee will:

1. Review and approve or disapprove applications. Notify producers of approval status.
2. Provide producer with recommendations and specifications for seeding. Verify grass seeding has been completed. Assist producer with development of a conservation/management plan that will establish, maintain, and improve the grass over the life of the contract.
3. Calculate the amount of the incentive payment using established rates within this agreement.
4. Prepare requests to City of Wichita for incentive payments including the name, address and Social Security number of the producer completing the cropland conversion and legal description of the demonstration site.

5. Provide an accounting of the cropland conversion including acres seeded and the grass species used.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

11-2-09

Citizen's Management Committee

Date

Sign Here

City of Wichita

Date

Working Agreement for Water Quality Projects

Between

Cheney Lake Watershed, Inc.

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Incentive Payments for Conversion of Cropland to Perennial Grass: The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of $100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Cost of incentive payments to the City for FY 2010 will not exceed $80,000.00. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

Citizens' Management Committee Responsibilities

Citizens' Management Committee will:

1. Review and approve or disapprove applications. Notify producers of approval status.
2. Provide producer with recommendations and specifications for seeding. Verify grass seeding has been completed. Assist producer with development of a conservation/management plan that will establish, maintain, and improve the grass over the life of the contract.
3. Calculate the amount of the incentive payment using established rates within this agreement.
4. Prepare requests to City of Wichita for incentive payments including the name, address and Social Security number of the producer completing the cropland conversion and legal description of the demonstration site.

5. Provide an accounting of the cropland conversion including acres seeded and the grass species used.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

_____ 11-2-09

Citizen's Management Committee Date

Sign Here

_____ _____

City of Wichita Date

Working Agreement for Water Quality Projects

Between

Cheney Lake Watershed, Inc.

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Incentive Payments for Conversion of Cropland to Perennial Grass: The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of $100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Cost of incentive payments to the City for FY 2010 will not exceed $80,000.00. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

Citizens' Management Committee Responsibilities

Citizens' Management Committee will:

1. Review and approve or disapprove applications. Notify producers of approval status.
2. Provide producer with recommendations and specifications for seeding. Verify grass seeding has been completed. Assist producer with development of a conservation/management plan that will establish, maintain, and improve the grass over the life of the contract.
3. Calculate the amount of the incentive payment using established rates within this agreement.
4. Prepare requests to City of Wichita for incentive payments including the name, address and Social Security number of the producer completing the cropland conversion and legal description of the demonstration site.

5. Provide an accounting of the cropland conversion including acres seeded and the grass species used.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

Citizen's Management Committee	11-2-09 Date
City of Wichita	Date

Working Agreement for Water Quality Projects

Between

Reno County Conservation District

and

Citizens' Management Committee

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Section 319 Demonstration Projects. In order to establish demonstrations of desirable practices that protect water quality, the Reno County Conservation District will provide 60% of the county average cost or 60% of the actual cost of installing the demonstration whichever is less using KDHE/EPA Section 319 funds and Wichita funds will provide 40% of the cost. This Working Agreement will also establish the procedure by which payments to those producers will be processed. This working agreement will cover Fiscal Year 2010 (Oct 1, 2009 through Sept 30, 2010).

Demonstration projects may include but will not be limited to the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands. The Citizen's Management Committee will review applications for demonstration funds and make decisions for approval based on available funds and the need for demonstrations of specific practices. Total costs of the incentive payments for the above mentioned demonstrations for FY 10 to the City of Wichita shall not exceed $10,000.

Special Projects: In order to implement a broad spectrum of desirable practices that protect water quality, the Citizen's Management Committee and the Reno County Conservation District will seek additional cost share funds from all available sources. These sources may include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office, the Kansas Rural Center, the US EPA and other entities. When these sources provide 60 to 70% of the county average cost or 60-70% of the actual cost of the project, the City of Wichita will provide up to 40% of the cost not to exceed a total of 100% of the cost. In cases where there is no established county average cost, payment will be based upon reasonable costs as determined by the CMC. This Working Agreement will also establish the procedure by which payments to those producers will be processed. This working agreement will cover Fiscal Year 2010 (Oct 1, 2009 through Sept 30, 2010).

These special projects may include but will not be limited to the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands for water quality protection. The Citizen's Management Committee will review applications for cost share funds and make decisions for approval based on available funds and the impact of implementing specific practices. Total costs of payments for the above mentioned projects for FY 10 to the City of Wichita shall not exceed $25,000.

Small Community Wastewater Treatment Systems: There are at least 13 small communities within the Cheney Watershed. Eight of these communities have some type of existing community wastewater treatment system. These communities are Abbyville, Arlington, Haviland, Partridge, Plevna, Preston, Stafford, Sylvia, and Turon. Communities without a community wastewater treatment system are Langdon, Byers, Castleton, and Penalosa.

Many of the community wastewater treatment systems operate near intermittent or perennial streams. In an effort to protect surface water within the watershed, the Cheney Lake Watershed, Inc. will provide incentive payments to small communities that are upgrading a wastewater treatment system.

The proposed treatment system must meet all current requirements of the Kansas Department of Health and Environment and must also be located within contributing portions of the watershed. Byers and Haviland are located in non-contributing portions of the watershed. Each eligible community may apply for a one-time payment of $2,500 to match state or federal funds awarded to upgrade the treatment system. Individual communities may make application for assistance through the Cheney Lake Watershed office. The Citizens Management Committee of the CLW will review and approve applications. Cheney Lake Watershed, Inc. will make direct payments to participating communities upon completion of the upgrades. A maximum of two applications per year may be approved and funded.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for the amount paid to participating communities and the City will reimburse CLW, Inc. in an amount not to exceed $5,000 for FY2010.

Perimeter Fencing: The conversion of cropland to pasture has positive water quality benefits if perennial grasses are established, maintained, and properly grazed. Presently there are no federal or state programs that provide financial assistance for perimeter fences around cropland that is converted to perennial grass. This expense is a major deterrent to conversion of cropland to permanent native grass. Conversion of cropland to grass includes land that has been established in native grass for enrollment in the

Conservation Reserve Program. Upon expiration of a CRP contract, assistance with the installation of perimeter fence would be an incentive to the landowner to develop a grazing system rather than returning the land to crop production.

A maximum of two (2) miles of fence is eligible for cost share. The cost share rate for Wichita funds will be 50% of county average cost or 50% of the actual cost whichever is less. The remaining 50% will be the responsibility of the producer. The county average cost for the Water Resources Cost Share (WRCS) program in the county where the practice is installed will be the basis for determining the funding level.

Producers must agree to abide by a grazing management plan developed with the NRCS Field Office for a 10 year period following the installation of the fence.

Applications will be taken at the County Field Office. The Citizen's Management Committee will review and approve the applications. Payment process will be handled by Cheney Lake Watershed with CMC/RCCD approval of all payment applications before sending to Wichita. Cost of incentive payments to the City for FY 2010 will not exceed $75,000.

The CMC may establish priority areas within the watershed for the use of cost share for perimeter fence.

Incentive Payments for Continuous Sign-up Conservation Reserve Program (CRP): The conversion of small, strategic parcels of cropland to native grasses has positive water quality benefits. The grasses act to slow and filter any water flowing over the grassed area. By locating these small parcels of perennial grasses adjacent to perennial or intermittent streams, nearly the same benefits may be achieved regarding water quality as converting an entire field to grass.

Continuous Sign-up CRP is a program of the USDA, administered by the Farm Service Agency. The Buffer Initiative Program is administered by the State Conservation Commission and local conservation districts. These programs partner to provide annual payments on 10 or 15 year contracts, cost share for establishment, and incentive payments. In order to maximize utilization of these programs in key areas of the watershed, producers may be eligible to receive additional cost share and incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas and determine CRP practices that will be eligible for Wichita payments.

Continuous CRP provides cost share of up to 90% for the earthwork and seeding of Continuous CRP contracts. The cost share rate for Wichita funds will be up to 30% of county average cost or 30% of the actual cost whichever is less but total cost share funds will not exceed 100% of the actual cost. The cost of payments for establishment of Continuous CRP in FY 2010 will not exceed $20,000 in Wichita funds. Cost share funds will be paid to the owner or operator, whichever incurred the cost of establishment. The Citizen's Management Committee will review and approve the applications for cost share assistance. Payment process will be handled by Cheney Lake Watershed with CMC/RCCD approval of all cost share payments before sending to Wichita.

An incentive payment of $200 per acre will be paid to the landowner or farm operator upon approval of the contract with FSA. Incentive payments will be paid to the owner or operator or split between them in the same manner that the Continuous CRP payments are to be paid. Cost of incentive payments to the City for FY 2010 will not exceed $10,000. Incentive payments will be paid to the owner and/or operator based upon the shares indicated in the CCRP contract for annual payments from USDA. Participants must provide a copy of their CCRP contract to the Cheney Lake Watershed office to receive signup incentive payments.

Reno County Conservation District Responsibilities

The Reno County Conservation District will:

1. Maintain official records relative to farms and other official records.

2. Will provide a breakdown of the units (acres, linear feet, etc.) performed.

a. Best Management Practice (BMP) applied.

b. Total of the units applied or completed.

c. The county average cost for the BMP, if available.

d. Actual cost incurred by owner

3. Calculate the amount of the incentive payment using established rates within this agreement. Total amount to a single producer in one year under any single program will not exceed $10,000.

4. Provide the City of Wichita the name, address and Social Security number of the producer completing the demonstration, the type of practice implemented, and legal description of the demonstration site.

5. Provide an accounting of the program to the City of Wichita.

Citizens' Management Committee will:

1. Establish the sign up period with Reno County Conservation District (RCCD).

2. Review, prioritize, and approve or disapprove applications. Notify producers or communities of approval status.

3. Prepare payment applications and review with RCCD before forwarding to City of Wichita for payment.

4. Make direct payments to small communities for upgrades in wastewater treatment systems and invoice the City of Wichita for reimbursement.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Will process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

4. Provide reimbursement to the Cheney Lake Watershed, Inc. for payments made to small communities for upgrades in wastewater treatment systems.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

Lyle Newby — 11-10-09

Reno County Conservation District — Date

William DeWitt — 11-2-09

Citizen's Management Committee — Date

City of Wichita — Date

Memorandum of Understanding
Between
Reno County Conservation District
And
The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River which enters Cheney Reservoir. It is the intent of this agreement to provide 100% cost share reimbursement, within the county average costs, to producers within the watershed who install such beneficial practices, and to establish the procedure by which payments to those producers will be processed. Under the Water Resources Cost Share Program (WRCS) and the Non-Point Source Pollution Control Fund (NPS) the producer will implement or install eligible improvements, and then apply for reimbursement for the cost of implementing those improvements. Under this program the producer is eligible to receive state reimbursement up to 70% of the cost. The intention of this agreement is to facilitate a means whereby the producer could receive 100% reimbursement by having the City of Wichita provide up to a 30% cost share payment for the improvements. This MOU will cover cost share practices installed under the FY 2010 program year beginning July 1, 2009 through June 30, 2010.

Reno County Conservation District Responsibilities:

The District:

1. Will maintain official records relative to farms and determine the producer's eligibility to participate in Water Resources Cost Share (WRCS) and Non-Point Source Pollution Control Fund (NPS) and other official records.

2. Will be responsible for maintaining County Average Costs. County Average Costs will be the basis for determining if the practices instituted by the producer were done in a cost effective manner. Expenses incurred by the producer above the County Average Cost will not be eligible for reimbursement.

3. Will provide to the City a breakdown of the units (acres, lineal feet, etc.) performed which will include a copy of the CS4 form showing:

   a. Best Management Practice (BMP) applied.
   b. Total of the units applied or completed.
   c. The County Conservation District County Average Cost for the BMP.
   d. Dollar amount eligible for cost-share.
   e. Dollar amount paid by cost-share fund.

4. Will administer the cost share amount to the producer for WRCS and NPS funds.

a. The maximum WRCS cost share to a single Reno County producer in a fiscal year is limited to $5,000. The maximum NPS cost share to a single Reno County producer is limited to $7,500 for livestock waste systems or $2,000 for household waste systems per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Reno County for FY2010 will be $40,438 for WRCS and $33,956 for the NPS Program.

b. The maximum WRCS cost share to a single Stafford County producer in a fiscal year is limited to $10,000. The maximum NPS cost share to a single Stafford County producer is limited to $5,000 per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Stafford County for FY2010 will be $30,892 for WRCS and $21,803 for NPS.

c. The maximum WRCS cost share to a single Pratt County producer in a fiscal year is limited to $4,000. The maximum NPS cost share to a single Pratt County producer is limited to $3,000 per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Pratt County for FY2010 will be $29,615 for WRCS and $19,527 for the NPS Program.

d. The maximum WRCS cost share to a single Kingman County producer in a fiscal year is limited to $3,500. The maximum NPS cost share to a single Kingman County producer is limited to $10,000 for livestock waste systems or $3,000 for household waste systems per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Kingman County for FY2010 will be $23,410 for WRCS and $17,164 for the NPS Program.

5. Will calculate the balance of the cost share to the producer to equal 100% of the County Average Cost. This amount will be calculated as 30% of the County Average Cost, or actual cost whichever amount is less.

6. Will provide the City of Wichita the name, address and Social Security number of the producer receiving payment, the type of practice implemented and legal site description of the improvement.

City of Wichita Responsibilities:

The City:

1. Will maintain official records relative to the cost-share program.

2. Will process payment requests upon receipt of the paperwork from the Reno County Conservation District and send payment to the producer as soon as possible within workload requirements. This payment will provide the balance of the cost share to the producer up to 100% of the County Average Cost. This amount will be calculated as 30% of the County

Average Cost or actual cost, whichever amount is less. Total costs to the City of Wichita shall not exceed $37,307 for FY 2010 WRCS and $27,735 for FY 2010 NPS Program. (Estimated Reno Co. WRCS $12,131; NPS $10,187: Stafford Co. $9,268 WRCS and $6,541 NPS: Pratt Co. $8,885 WRCS $5,858 NPS: Kingman Co. $7,023 WRCS; $5,149 NPS)

3. Will provide an accounting of the program at the request of the Reno County Conservation District.

Both Parties:

1. This agreement can be modified with consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party.

Marion Hubbard	
Reno County Conservation District	City of Wichita
11-10-09	
Date	Date

Agenda Item No. XII-

City of Wichita
City Council Meeting
February 23, 2010

TO:	Mayor and City Council Members
SUBJECT:	Building Facade Improvements in the Core Area (Districts I and VI)
INITIATED BY:	Office of Urban Development
AGENDA:	Consent

Recommendation: Approve project cost modifications for Broadway Plaza, Kaufman Building and Sutton Place; approve the Final Statements of Cost for Kaufman and Petroleum Buildings; approve requests/petitions for improvements; accept waiver and consent relating to special assessments; adopt resolutions of findings of advisability for Broadway Plaza and Sutton Place; and pass special assessment ordinances for Kaufman and Petroleum Buildings.

Background: On March 20, 2001, the City Council approved a Façade Improvement Program (Program) designed to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for businesses to improve their property. The program was initially limited to buildings with a frontage on Douglas Avenue between Seneca and Washington but was later expanded to include the Downtown Self-Supporting Municipal Improvement District (SSMID); the Arena Neighborhood and 21st Street North Corridor (International Marketplace) Redevelopment Plan areas; the Delano and McAdams Neighborhood Revitalization Plan areas; the Center City (C.O.R.E.), South Central (South Broadway) and Historic Midtown Neighborhood Plan areas; and the Central Northeast Plan area.

In May 2006 the City Council approved renovations to a building façade at 105 South Broadway (Broadway Plaza Building). Special assessments totaling $603,100 were authorized for the improvements in a later action. In April 2007, the City Council approved façade improvements for 208 South Market (Kaufman Building – phase I). Special assessments were subsequently authorized for improvements of $280,500. These projects are complete, permanent financing has been issued and special assessments have been levied against the improved properties.

In January 2008, City Council again considered utilization of special assessment financing for façade improvements by conceptually approving a request for exterior renovations of seven high rise buildings located within Program boundaries: 208 South Market (Kaufman Building – phase II), 212 North Market (Landmark Square), 200 East 1st (Farmers and Bankers Building), 200 North Broadway (Orpheum Building), 221 South Broadway (Petroleum Building), 209 East William (Sutton Place) and 125 North Market (SC Telcom Building). Between January 2008 and December 2008, numerous actions were taken by the City Council related to these projects including, but not limited to, authorizing special assessments for the façade improvements.

Improvements on four of the projects, Landmark Square; Farmers and Bankers Building; Orpheum Building; and SC Telcom – Phase I, are complete and the City Council approved a combined final project cost of $1,633,127 to be paid by special assessments in January 2010. Permanent financing has also been issued and special assessments levied against the improved properties. Limited façade improvements have been completed on the Petroleum Building and Sutton Place projects. These two projects can be closed out at this stage and the improvements can be specially assessed.

Analysis: An internal review of the façade improvement projects listed above was performed which resulted in the need for modifications to be made to the final cost of certain projects to ensure only

eligible Façade Improvement Program costs were included. Real Development has repaid the City for costs associated with the Broadway Plaza, Kaufman Building – Phase I and Sutton Place projects that were not eligible per Program guidelines or were in excess of allowable amounts.

The City's Program does not expressly allow for architectural/engineering fees or construction costs to be reimbursed as project costs if the services are provided prior to project approval by the City Council. Staff is recommending that all façade-related architectural/engineering fees noted below be included as costs for the respective projects since these services were needed to fully define project scope and budget before the projects could be presented to the City Council for final approval.

	Broadway Plaza	**Kaufman**	**Sutton Place**
Project Approval Date:	May 2006	April 2007	September 2008
Architectural/Engineering Costs:			
Fees Incurred Prior to Approval	$11,094	$15,139	$27,131
Fees Incurred After Approval	17,955	-	48,889
Total	$29,049	$15,139	$76,020

Staff is also recommending that façade-related construction costs totaling $117,432 be included for Sutton Place for work that was initiated subsequent to the City Council granting conceptual approval for the project in January 2008, but prior to formal project approval in September 2008.

Additionally, Staff is recommending that the City Council retroactively authorize development fees of 10% of construction costs as an eligible cost for the Broadway Plaza project consistent with action taken on certain other façade improvement projects. The original project cost budget for Broadway Plaza did not include a provision for development fees; however, in March 2008 the City Council approved inclusion of development fees of up to 10% of construction costs as eligible project costs for other Real Development façade improvement projects.

The net impact of the repayment and the recommended project cost modifications is:

	Broadway Plaza	**Kaufman**	**Sutton Place**
Final Project Cost	$603,100	$280,500	$112,911
Adjustment	(39,000)	(16,279)	144,563
Revised Final Project Cost	$564,100	$264,221	$257,474

In order to accomplish the project cost modifications noted above, the City Council must either approve petitions signed by a majority of the property owners or accept a waiver and consent signed by 100% of the property owners. Improvement petitions have been submitted by the property owners of Broadway Plaza and Sutton Place and resolutions have been prepared for the findings of advisability of these projects providing for the amendment of special assessments. The petition/waiver for Broadway Plaza was signed by 91% of the property owners and reflects the project's amended final cost of $564,100. The original maximum assessment amount for the Sutton Place project was $2,955,000. A petition signed by 58% of the property owners has been received reflecting the project's amended final cost of $257,474. A waiver and consent has been signed by the 100% property owner of Kaufman Building regarding the levy of the revised special assessments in the amount of $264,221 and an Ordinance and Final Statement of Cost amending the levy of such assessments has been prepared.

In order to amend and close-out the Petroleum project, the City Council must approve and accept a request for change in improvement and waiver and consent. This document was signed by 100% of the building's owners and amends the scope of the project to $71,769 to reflect only the work that has been

completed to date and provides for permanent financing of the amended improvements. An Ordinance and Final Statement of Cost reflecting the change in project scope has been prepared. The original maximum assessment amount for this project was $750,000.

Financial Considerations: Real Development and the City were able to true-up monies due to/due from by Real Development issuing the City a check in the amount of $24,482.79. This net payment includes repayment of $82,462.79 from Real Development for costs that were not eligible or were in excess of allowable amounts, which was offset with reimbursement due them from the City for eligible façade improvement costs for the Petroleum Building project totaling $57,980. The repayment from Real Development impacted the projects below.

Project	Amount
Broadway Plaza	$39,044.40
Kaufman Building	11,986.00
Sutton Place	31,432.39
Total	$82,462.79

The combined final project cost for all four buildings is $1,157,564. Non-taxable General Obligation Special Assessment Bonds have already been issued for the Broadway Plaza and Kaufman Buildings in the amount of $883,600. Staff recommends that the repayment from Real Development attributable to these projects be used to offset future debt service requirements and that the special assessments previously levied against the properties be amended to reflect the revised final cost of the projects. Taxable General Obligation Special Assessment Bonds will subsequently be issued for the Sutton Place and Petroleum Building projects in the amount of $329,243. This obligation will be paid with special assessments levied against the improved properties and will be backed by the full faith and credit of the City of Wichita.

Goal Impact: The goal for Economic Vitality and Affordable Living is advanced through the use of special assessment financing to partner with and leverage investment from developers to create commercial and residential economic value within the City. This program addresses the Dynamic Core Area and Vibrant Neighborhoods goal by facilitating improvements to privately owned buildings.

Legal Considerations: State statutes provide the City Council authority to use special assessment funding for the projects pursuant to K.S.A. 12-6a01 *et seq*. Requests/petitions for improvement signed by less than 100% of the property owners are required to have a determination of findings of advisability and a public hearing. Public hearing dates for the Broadway Plaza and Sutton Place projects will be set on March 9, 2010. A project that has a waiver and consent signed by 100% of the property owners does not require a public hearing. Thus, public hearings will not be held for the Kaufman and Petroleum building projects and the special assessment process will move forward. The resolutions of findings of advisability and the special assessment ordinances were prepared by Bond Counsel and have been reviewed and approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the project cost modifications for Broadway Plaza, Kaufman Building and Sutton Place; approve the Final Statements of Cost for Kaufman and Petroleum Buildings; approve the requests/petitions for improvements; accept the waiver and consent relating to special assessments; adopt the resolutions of findings of advisability for Broadway Plaza and Sutton Place; pass the special assessment ordinances for Kaufman and Petroleum Buildings and authorize publication of the ordinances.

Attachments: Final Statements of Cost (2); Petitions/Waivers (4); Resolutions (2); Ordinances (2)

ORDINANCE NO. ____-_____

AN ORDINANCE LEVYING AND ASSESSING SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS, AND REPEALING ORDINANCE NO. 47-800 OF THE CITY **(FACADE IMPROVEMENTS AT 208 S. MARKET TO SERVE WILLIAM GRIEFFENSTEIN'S ADDITION (PROJECT NO. 491-022/474-84536))**.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has authorized the establishment of an improvement district (the "Improvement District") pursuant to Resolution No. 07-223, adopted on April 3, 2007 ("Resolution No. 07-233"); and

WHEREAS, pursuant to Ordinance No. 47-800 of the City adopted on March 18, 2008 ("Ordinance No. 47-800"), assessments have been levied against the property in the Improvement District to pay for the cost of the improvements authorized by Resolution No. 07-233; and

WHEREAS, the Governing Body of the City has determined it is necessary to modify the assessments levied by Ordinance No. 47-800 because of a correction to the total cost of the improvements; and

WHEREAS, K.S.A. 12-6a12 authorizes the Governing Body of the City to make supplemental assessments to correct omissions, errors or mistakes in the assessment relating to the total cost of the improvement; and

WHEREAS, the owners of 100% of the property in the Improvement District have waived any notice of hearing and have consented to the revised assessments described on *Exhibit A* to this Ordinance, waived any formal additional notice of the final revised assessments; and waived all right to pay the revised assessments without paying all interest on the revised assessments for the 15-year installment period;

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

SECTION 1. Pursuant to K.S.A. 12-6a01 *et seq.*, as amended, special assessments to pay the costs of the following described improvements in the City as originally assessed and levied pursuant to Ordinance No. 47-800 are hereby revised and levied and assessed against the lots, pieces and parcels of land liable therefore as described on *Exhibit A* to this Ordinance, which is incorporated herein by reference, and in the amounts set forth on *Exhibit A* following the description of each lot, piece or parcel of land:

Facade Improvements at 208 S. Market (east of Market, south of William) 472-84536.

SECTION 2. Such assessments will be levied concurrently with general taxes and be payable in 15 annual installments beginning in 2008 with the first levy of assessments levied pursuant to Ordinance No. 47-800.

SECTION 3. The payment of said assessments may indefinitely be deferred against those property owners eligible for such deferral as provided in Ordinance No. 43-977 of the City.

SECTION 4. The principal amount of the unpaid assessments, together with interest on the unpaid principal balance thereof at a rate to be determined by the Governing Body (such rate not to exceed the maximum rate allowed by K.S.A. 10-1009, as amended) will be certified to the County Clerk of Sedgwick County, Kansas, for the installment period set forth in Section 2 of this Ordinance and will be levied against the property liable for such assessments in the same form and manner as, and will be collected at such time as it customary for, the levying and collecting of ad valorem property taxes, all in accordance with K.S.A. 12-6a01 *et seq.*

SECTION 5. Ordinance No. 47-800 is hereby repealed.

SECTION 6. This Ordinance shall take effect and be in force from and after its publication (including publication of *Exhibit A* hereto) once in the official City newspaper.

PASSED by the Governing Body of the City of Wichita, Kansas, on March 2, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

EXHIBIT A

Property Liable for Revised Special Assessments	**Amount of Revised Special Assessments**
Lots 20-22-24 Market St. Greiffenstein's Add. Tax Key# A-05497	$264,221.00

ORDINANCE NO. ____-_____

AN ORDINANCE LEVYING AND ASSESSING SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF LAND LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS, AMENDING RESOLUTION NO. 08-541 OF THE CITY AND REPEALING ORDINANCE NO. 48-148 OF THE CITY **(FACADE IMPROVEMENTS AT 221 S. BROADWAY, ALONG BROADWAY (PROJECT NO. 472-84680))**.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has authorized the establishment of an improvement district (the "Improvement District") pursuant to Resolution No. 08-541, adopted on December 2, 2009 ("Resolution No. 08-541"); and

WHEREAS, pursuant to Ordinance No. 48-148 of the City adopted on December 16, 2009 ("Ordinance No. 48-148"), assessments have been levied against the property in the Improvement District to pay for the cost of the improvements authorized by Resolution No. 08-541; and

WHEREAS, the owners of 100% of the property in the Improvement District have requested and consented to a change in the description of the improvements authorized by Resolution No. 08-541 and have waived any notice of hearing and have consented to the revised assessments described on *Exhibit A* to this Ordinance, waived any formal additional notice of the final revised assessments; and waived all right to pay the revised assessments without paying all interest on the revised assessments for the 15-year installment period; and

WHEREAS, the Governing Body of the City has determined it is necessary to amend Resolution No. 08-541 to revise the description of the improvements and to modify the assessments levied by Ordinance No. 48-148 because of a change in the description of the improvements and a correction to the total cost of the improvements; and

WHEREAS, K.S.A. 12-6a12 authorizes the Governing Body of the City to make supplemental assessments to correct omissions, errors or mistakes in the assessment relating to the total cost of the improvement;

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

SECTION 1. Sections 1 and 2 of Resolution No. 08-541 are hereby amended to read as follows:

> SECTION 1. That it is necessary and in the public interest to construct façade improvements at 221 S. Broadway, that include exterior masonry and terra cotta joint repairs on levels three to top of parapet/roof coping on the east elevation, abutting public ways along Broadway Street.

Said improvements shall be constructed in accordance with plans and specifications approved by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be $71,769.

SECTION 2. Pursuant to K.S.A. 12-6a01 *et seq.*, as amended, special assessments to pay the costs of the improvements described above in the City as originally assessed and levied pursuant to Ordinance No. 48-148 are hereby revised and levied and assessed against the lots, pieces and parcels of land liable therefore as described on *Exhibit A* to this Ordinance, which is incorporated herein by reference, and in the amounts set forth on *Exhibit A* following the description of each lot, piece or parcel of land.

SECTION 3. Such assessments will be levied concurrently with general taxes and be payable in 15 annual installments beginning in 2010.

SECTION 4. The payment of said assessments may indefinitely be deferred against those property owners eligible for such deferral as provided in Ordinance No. 43-977 of the City.

SECTION 5. The principal amount of the unpaid assessments, together with interest on the unpaid principal balance thereof at a rate to be determined by the Governing Body (such rate not to exceed the maximum rate allowed by K.S.A. 10-1009, as amended) will be certified to the County Clerk of Sedgwick County, Kansas, for the installment period set forth in Section 3 of this Ordinance and will be levied against the property liable for such assessments in the same form and manner as, and will be collected at such time as it customary for, the levying and collecting of ad valorem property taxes, all in accordance with K.S.A. 12-6a01 *et seq.*

SECTION 6. Ordinance No. 48-148 is hereby repealed.

SECTION 7. This Ordinance shall take effect and be in force from and after its publication (including publication of *Exhibit A* hereto) once in the official City newspaper. The City clerk is directed to file this Ordinance of record with the Register of Deeds of Sedgwick County, Kansas.

PASSED by the Governing Body of the City of Wichita, Kansas, on March 2, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT #1, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000A	$7,097.95
UNIT #2, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000B	$7,097.95
UNIT #3, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000C	$7,097.95
UNIT #4, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000D	$7,097.95
UNIT #5A, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000E	$7,097.95
UNIT #5B, PETROLEUM BUILDING CONDOMINIUM & 20.88% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY	

AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000F	$14,985.37
UNIT #6, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000G	$7,097.96
UNIT #7, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000H	$7,097.96
UNIT #8, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000J	$7,097.96

First Published in the Wichita Eagle on February 26, 2010

RESOLUTION NO. 10-039

A RESOLUTION DETERMINING THE ADVISABILITY OF FAÇADE IMPROVEMENTS AT 105 SOUTH BROADWAY (SOUTH OF DOUGLAS, WEST OF BROADWAY) 472-84411 IN THE CITY OF WICHITA, KANSAS; AUTHORIZING SUCH IMPROVEMENTS IN ACCORDANCE WITH THE FINDINGS OF THE GOVERNING BODY AND K.S.A. 12-6a01 *ET SEQ.*, AND REPEALING RESOLUTION NO. 08-129

WHEREAS, K.S.A. 12-6a02 authorizes the governing body of any city to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city and to levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvements for special benefits conferred upon such property by any such improvements and to provide for the payment of all or any part of the costs of the improvements with the proceeds of such special assessments; and

WHEREAS, a petition, executed by a sufficient number of the owners of property within the proposed improvement district, has been filed with the City of Wichita, Kansas (the "City"), requesting certain improvements be made in accordance with K.S.A. 12-6a01 *et seq.*; and

WHEREAS, K.S.A. 12-6a04(2) provides that upon receipt of a petition filed with the City Clerk in accordance with K.S.A. 12-6a04(2), the governing body of the City may (a) make findings by resolution as to the advisability of the improvements requested in the petition, the nature of the improvements, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city-at-large and (b) order the improvements without notice or public hearing; and

WHEREAS, the Governing Body finds it necessary to make its final findings by resolution as to the advisability of the proposed improvements and finds and determines it necessary to authorize the improvements;

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

SECTION 1. The Governing Body finds and finally determines that:

(a) It is advisable to make the following improvements:

the design and reconstruction of a façade improvements to enable historically or architecturally significant buildings to be preserved and eliminate exterior code deficiencies, all in accordance with plans and specifications approved by the City of Wichita.

Said improvements shall be constructed in accordance with plans and specifications approved by the City Engineer.

b) The estimated or probable cost of such improvements is $564,100.

(c) The improvement district in the City to be assessed for the cost of the improvements is:

Lots 133 and 135, on Douglas Avenue, in Greiffenstein's Original Town of Wichita, Sedgwick County, Kansas

(d) The method of assessment is equally per square foot.

(e) The apportionment of the cost of the improvements between the improvement district and the city-at-large is 100% to be assessed against the improvement district and 0% to be paid by the city-at-large.

SECTION 2. The improvements are authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in Section 1 of this Resolution.

SECTION 3. Resolution No. 08-129 is hereby repealed.

SECTION 4. The City Clerk shall publish this Resolution one time in the official City newspaper and shall also file this Resolution of record in the office of the Register of Deeds of Sedgwick County, Kansas. This Resolution shall be effective upon adoption by the Governing Body of the City.

ADOPTED by the Governing Body of the city of Wichita, Kansas, on February 23, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

First Published in the Wichita Eagle on February 26, 2010

RESOLUTION NO. 10-040

A RESOLUTION DETERMINING THE ADVISABILITY OF FAÇADE IMPROVEMENTS AT 209 EAST WILLIAM (EAST OF MARKET, SOUTH OF WILLIAM) 472-84679 IN THE CITY OF WICHITA, KANSAS; AUTHORIZING SUCH IMPROVEMENTS IN ACCORDANCE WITH THE FINDINGS OF THE GOVERNING BODY AND K.S.A. 12-6a01 *ET SEQ.*, AND REPEALING RESOLUTION NO. 08-428

WHEREAS, K.S.A. 12-6a02 authorizes the governing body of any city to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city and to levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvements for special benefits conferred upon such property by any such improvements and to provide for the payment of all or any part of the costs of the improvements with the proceeds of such special assessments; and

WHEREAS, a petition, executed by /a sufficient number of the owners of property within the proposed improvement district, has been filed with the City of Wichita, Kansas (the "City"), requesting certain improvements be made in accordance with K.S.A. 12-6a01 *et seq.*; and

WHEREAS, K.S.A. 12-6a04(2) provides that upon receipt of a petition filed with the City Clerk in accordance with K.S.A. 12-6a04(2), the governing body of the City may (a) make findings by resolution as to the advisability of the improvements requested in the petition, the nature of the improvements, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city-at-large and (b) order the improvements without notice or public hearing; and

WHEREAS, the Governing Body finds it necessary to make its final findings by resolution as to the advisability of the proposed improvements and finds and determines it necessary to authorize the improvements;

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

SECTION 1. The governing body finds and finally determines that:

(a) It is advisable to make the following improvements:

Acquisition of façade improvements at 209 East William including glazing, stucco, granite, trim and painting on the ground level of the north and northwest elevations, abutting public ways, including Market Street and William Street.

Said improvements shall be constructed in accordance with plans and specifications approved by the City Engineer.

b) The estimated or probable cost of such improvements is $257,474.

(c) The improvement district in the City to be assessed for the cost of the improvements is:

Units 1 through 12, Sutton Place Condominium, on Lots 14, 16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas

(d) The method of assessment is equally per square foot.

(e) The apportionment of the cost of the improvements between the improvement district and the city-at-large is 100% to be assessed against the improvement district and 0% to be paid by the city-at-large.

SECTION 2. The improvements are authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in Section 1 of this Resolution.

SECTION 3. Resolution No. 08-428 is hereby repealed.

SECTION 4. The City Clerk shall publish this Resolution one time in the official City newspaper and shall also file this Resolution of record in the office of the Register of Deeds of Sedgwick County, Kansas. This Resolution shall be effective upon adoption by the Governing Body of the City.

ADOPTED by the Governing Body of the city of Wichita, Kansas, on February 23, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

WAIVER AND CONSENT RELATING TO SPECIAL ASSESSMENTS BY THE CITY OF WICHITA, KANSAS, IN CONNECTION WITH CERTAIN IMPROVEMENTS AUTHORIZED BY RESOLUTION NO. 07-223 OF THE CITY OF WICHITA, KANSAS

TO THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

The undersigned (hereinafter called the "Owner"), does hereby state that the undersigned is the owner of record of the real estate located in Sedgwick County, Kansas, set forth on *Exhibit A* attached hereto (hereinafter called the "Property"), which Property is liable for special assessments for the costs of constructing the following described improvements:

Facade Improvements at 208 S. Market (east of Market, south of William) 472-84536; and (hereinafter called the "Improvements") in the City of Wichita, Kansas (the "City"), as heretofore authorized by Resolution No. 07-223 of the City (the "Resolution").

The Owner has previously received notice that the cost of the Improvements were assessed against the property benefited by the Improvements, including the Property, by Ordinance No. 47-800 of the City passed on March 18, 2008 (the "Original Assessment Ordinance").

The Owner has been advised that the Governing Body of the City is considering reducing the total final cost of the Improvements to be payable by the property located in the improvement district created by the Resolution (the "Improvement District") which will reduce the special assessments against the Property to the amount shown on Exhibit A attached hereto (hereinafter called the "Revised Special Assessments").

The Owner hereby further states that the Owner (a) waives any formal notice of and the holding of a public hearing by the City, for the purpose of considering the Revised Special Assessments; (b) consents to the levy of the Revised Special Assessments in 15 annual installments against the Property by appropriate proceedings of the City in the amount shown on Exhibit A plus interest in an amount sufficient to retire the City's general obligation bonds issued to provide permanent financing for the cost of the Improvements, all without formal or further notice to the Owner; (c) waives any formal additional notice of the final Revised Special Assessments; and (d) waives all right to pay the Revised Special Assessments without paying all interest on the Revised Special Assessments for the 15-year installment period; (e) waives the 30-day statute of limitations provided in K.S.A. 12-6a11; and (f) acknowledges that the execution of this document by the Owner does not obligate the Governing Body of the City to authorize the Revised Special Assessments but permits it to consider the reduction without the necessity of further notice or a public hearing if 100% of the owners of property in the Improvement District waive further notice and hearing and consent to such proceedings.

DATED, this 22nd day of December, 2009.

"OWNER"

By Michael Elzufon
Title member

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this 22 day of December 2009, before me the undersigned, a notary public in and for the county and state aforesaid, came Michael Elzufon (name), CEO (title), of Real Development, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal) Jennifer Ann Parkos
NOTARY PUBLIC
State of Minnesota
My Commission Expires 1-31-2014

Notary Public

EXHIBIT A

Property Liable for Revised Special Assessments	Amount of Revised Special Assessments
Lots 20-22-24 Market St. Greiffenstein's Add. Tax Key# A-05497	$264,221.00

REQUEST FOR CHANGE IN IMPROVEMENT AND WAIVER AND CONSENT RELATING TO SPECIAL ASSESSMENTS BY THE CITY OF WICHITA, KANSAS, IN CONNECTION WITH CERTAIN IMPROVEMENTS AUTHORIZED BY RESOLUTION NO. 08-541 OF THE CITY OF WICHITA, KANSAS

TO THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

The undersigned (hereinafter called the "Owner"), does hereby state that the undersigned is the owner of record of the real estate located in Sedgwick County, Kansas, set forth on *Exhibit A* attached hereto (hereinafter called the "Property"), which Property is liable for special assessments for the costs of constructing the following described improvements:

Facade Improvements at 221 South Broadway abutting public ways, including Broadway Street and alley right-of-way (south of William, west of Broadway); and

(hereinafter called the "Improvements") in the City of Wichita, Kansas (the "City"), as heretofore authorized by Resolution No. 08-541 of the City (the "Resolution").

The Owner requests that the description of the Improvements be amended to the following:

Façade improvements at 221 S. Broadway, that include exterior masonry and terra cotta joint repairs on levels three to top of parapet/roof coping on the east elevation, abutting public ways along Broadway Street

(the "Amended Improvements"), and states that the total estimated cost of the Amended Improvements is $71,769.00. The Owner further requests that all other terms and provisions relating to the method of assessing the cost of the Amended Improvements, the allocation of cost of the Amended Improvements against the property in the improvement district created by the Resolution (the "Improvement District"), and the extent and boundaries of the Improvement District to be assessed as provided in the Resolution remain the same.

The Owner hereby further states that the Owner has been advised that the total final cost of the Amended Improvements payable by the property in the Improvement District is $71,769.00, all of which will be charged as special assessments against the property in the Improvement District in accordance with the Resolution (hereinafter called the "Special Assessments").

The Owner hereby further states that the Owner (a) waives any formal notice of and the holding of a public hearing by the City for the purpose of considering the Special Assessments; (b) consents to the levy of the Special Assessments in 15 annual installments against the Property by appropriate proceedings of the City in the amount shown on Exhibit A plus interest in an amount sufficient to retire the City's general obligation bonds issued to provide permanent

financing for the cost of the Amended Improvements, all without formal or further notice to the Owner; (c) waives any formal additional notice of the final Special Assessments; and (d) waives all right to prepay the Special Assessments without interest immediately following the publication of the ordinance of the City levying the Special Assessments; (e) waives the 30-day statute of limitations provided in K.S.A. 12-6a11; and (f) acknowledges that the execution of this document by the Owner does not obligate the Governing Body of the City to authorize the Amended Improvements.

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 12 day of January, 2010

"OWNER"

By: Douglas J. Boyland

Title:

Lynda N. Faulkner

EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #1, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000A	$7,097.95

1/12/10

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 12th day of January, 2010.

"OWNER"

Maricel V. Sabado

By MARICEL V. SABADO

Title OWNER

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On January 12th 2010 (Date) before me, Sean Langevin, notary Public (Here Insert Name and Title of the Officer)

personally appeared Marice/ Villanueva Sabado (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is)~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(ies), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

SEAN LANGEVIN
Commission # 1792262
Notary Public - California
Orange County
My Comm. Expires Feb 28, 2012

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my ~~hand~~ and official seal.

Signature (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Request for Change in Ownership

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #2, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000B	$7,097.95

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 14 day of JAN, 2010.

"OWNER"

Thomas [illegible]

Brenda L Martinson

By _____

Title _____

NOTE:
only responsible for Units #3 & #8.

EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #3, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000C	$7,097.95

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 3rd day of February, 2010.

"OWNER"

By YUEN TIEW

Title

EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #4, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000D	$7,097.95

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 18th day of January 2010.

"OWNER"

By

Managing Member,
Number Five Petroleum, LLC

EXHIBIT A

Petroleum Building Facade Improvement District

Property Liable for Special Assessments	**Amount of Special Assessments**
UNIT #5A, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000E	$7,097.95

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 22 day of January, 2010.

"OWNER"

By DAVID GLUNDBERG

Title MEMBER

EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #5B, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000F	$14,985.37

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 24 day of December, 2009.

"OWNER"

By Leah Pollack.
Title member, US Housebuyers, LLC

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Los Angeles

On 12/24/9 (Date) before me, Dawn R Walker, notary Public (Here Insert Name and Title of the Officer)

personally appeared Leah Chana Pollack (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DAWN R. WALKER
Commission # 1865078
Notary Public - California
Los Angeles County
My Comm. Expires Oct 14, 2013

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Dawn R Walker
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #6, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000G	$7,097.96

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this _1st_ day of February, 2010.

"OWNER"

Edward Schubert

By _____

Title _____

EXHIBIT A

Petroleum Building Facade Improvement District

Property Liable for Special Assessments	Amount of Special Assessments
UNIT #7, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000H	$7,097.96

Names may not be withdrawn from this document by the signers hereof after the governing body commences consideration of this request or later than seven days after filing such request with the City, whichever occurs first.

DATED this 14 day of Jan, 2010.

"OWNER"

By _____

Title _____

NOTE:
only responsible for Units #3 & #8.

EXHIBIT A

Petroleum Building Facade Improvement District

Property Subject to Assessment	Proposed Maximum Assessment
UNIT #8, PETROLEUM BUILDING CONDOMINIUM & 9.89% UND INTEREST IN COMMON AREAS & FACILITIES SITUATED ON EVEN LOTS 28 THRU 34, BROADWAY AVE, GREIFFENSTEIN'S ADD. Tax Key #A-05485-000J	$7,097.96

REQUEST/PETITION FOR IMPROVEMENTS AND WAIVER AND CONSENT RELATING TO SPECIAL ASSESSMENTS BY THE CITY OF WICHITA, KANSAS, IN CONNECTION WITH CERTAIN IMPROVEMENTS AUTHORIZED BY RESOLUTION NO. 08-129 OF THE CITY OF WICHITA, KANSAS

TO THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

The undersigned (hereinafter called the "Owner"), does hereby state that the undersigned is the owner of record of the real estate located in Sedgwick County, Kansas, set forth on *Exhibit A* attached hereto (hereinafter called the "Property"), which Property is liable for special assessments for the costs of constructing the following described improvements:

> the design and reconstruction of a façade improvements to enable historically or architecturally significant buildings to be preserved and eliminate exterior code deficiencies, all in accordance with plans and specifications approved by the City of Wichita; and

(hereinafter called the "Improvements") in the City of Wichita, Kansas (the "City"), as heretofore authorized by Resolution No. 08-129 of the City (the "Resolution").

The Owner requests and petitions that the Improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.*, without further notice or hearing by the City, and states (a) the total estimated cost of the Improvements is $564,100; (b) the extent of the improvement district to be assessed for the costs of the Improvements is Lots 133 and 135, on Douglas Avenue, in Greiffenstein's Original Town of Wichita, Sedgwick County, Kansas (the "Improvement District"); (c) the method of assessment of such costs of the Improvements shall result in the total cost of the Improvement being allocated on a square foot basis; and (d) 100% of such costs shall be paid by the Improvement District.

The Owner hereby further states that the Owner has been advised that the total final cost of the Improvements is $564,100; all of which will be charged as special assessments against the Improvement District and that the special assessment to be assessed against the Property is set forth on Exhibit A attached hereto (hereinafter called the "Special Assessments").

The Owner hereby further states that the Owner (a) waives any formal notice of and the holding of a public hearing by the City, for the purpose of considering the Special Assessments; (b) consents to the levy of the Special Assessments in 15 annual installments against the Property by appropriate proceedings of the City in the amount shown on Exhibit A plus interest in an amount sufficient to retire the City's general obligation bonds issued to provide permanent financing for the cost of the Improvements, all without formal or further notice to the Owner; (c) waives any formal additional notice of the final Special Assessments; and (d) waives all right to pay the Special Assessments without paying all interest on the Special Assessments for the 15-yer installment period; and (e) waives the 30-day statute of limitations provided in K.S.A. 12-6a11 and any irregularities in the procedures of the City to establish the Improvement District or levy the Special Assessments.

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Feb. 3, 2010.

"OWNER"

By _____
Title _____

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

_____
Notary Public

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 1, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.81

4829-6220-9541.1

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Feb 9, 2010.

"OWNER"

Broadway Plaza No. 2 LLC
By
Title Owner

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

_____
Notary Public

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 2, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.81

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this 1/20/, 2010.

"OWNER"

By YUEN TIEW
Title

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this _____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

Notary Public

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 3, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Feb. 3, 2010

"OWNER"

Broadway Plaza Fourth Floor

By _____

Title _____

Marilyn Thomas

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this 3 day of Feb. 2010 before me the undersigned, a notary public in and for the county and state aforesaid, came BROADWAY PLAZA FOURTH FLOOR (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

_____
Notary Public

4829-6220-9541.1

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 4, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this JAN 15th, 2010.

"OWNER"

PLEASE NOTE:
signing for pages
1, 2 & 5 only.

Thomas A. Martinson
Brenda L Martinson

By _____
Title _____

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

_____
Notary Public

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 5, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Jan 21, 2010

"OWNER"

By KIRK D. SHORT
Title MEMBER

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this 21 day of January 2010, before me the undersigned, a notary public in and for the county and state aforesaid, came Kirk D. Short (name), Member (title), of Short's Investment Group, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

Notary Public

DONNALYNN OSTERMAN
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. Jan. 11, 2013

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 6, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Jan. 15, 2010.

"OWNER"

Maricel V. Sabado
By MARICEL V. SABADO
Title OWNER

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal) * See attached Document *

_____
Notary Public

4829-6220-9541.1

2

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On January 15 2010 (Date) before me, Heather Wileman A Notary Public (Here Insert Name and Title of the Officer)
personally appeared Maricel V Sabado (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is ~~are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Heather Wileman
Signature of Notary Public

HEATHER WILEMAN
Commission # 1854966
Notary Public - California
Orange County
My Comm. Expires Jul 17, 2013

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document
Title or Type of Document: Request/Petition for improvements and Waiver
Document Date: January 15 2010 Number of Pages: 3
Signer(s) Other Than Named Above: NO

Capacity(ies) Claimed by Signer(s)

Signer's Name: Maricel V Sabado	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☒ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing:	Signer Is Representing:
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 7, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this 1/22, 2010

"OWNER"

By DAVID G. LUNDBERG
Title MEMBER

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____ 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

_____
Notary Public

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 8, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Jan. 15, 2010.

"OWNER"

Marcel V. Sabado

By MARCEL V. SABADO

Title OWNER

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this ____ day of _____, 20__, before me the undersigned, a notary public in and for the county and state aforesaid, came _____ (name), _____ (title), of _____, who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal) *See attached document* _____
Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange }

On January 15, 2010 (Date) before me, Heather Wileman A Notary Public (Here Insert Name and Title of the Officer)
personally appeared Marical V Sabado (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(~~ies~~), and that by ~~his/her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

HEATHER WILEMAN
Commission # 1854966
Notary Public - California
Orange County
My Comm. Expires Jul 17, 2013

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Heather Wileman
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Request/Petition for improvements and Waiver
Document Date: January 15, 2010 Number of Pages: 3
Signer(s) Other Than Named Above: NO

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marical V Sabado	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☒ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer Is Representing:	Signer Is Representing:
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 10, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

Names may not be withdrawn from this request/petition by the signers hereof after the governing body commences consideration of this request/petition or later than seven days after filing such request with the City, whichever occurs first.

DATED at Wichita, Kansas, this Jan 21, 2010.

"OWNER"

By KIRK D. SHORT
Title MEMBER

ACKNOWLEDGMENT AND VERIFICATION OF SIGNATURE

State of Kansas)
) SS.
County of Sedgwick)

Be it remembered, that on this 21st day of January 2010 before me the undersigned, a notary public in and for the county and state aforesaid, came Kirk D. Short (name), Member (title), of Number Eleven Broadway Plaza LLC who is personally known to me to be such individual and who is personally known to me to be the same person who executed the within instrument and such individual duly acknowledged the execution of the same to be the act and deed of such entity/person.

(Seal)

Notary Public

DONNALYNN OSTERMAN
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. Jan. 11, 2013

EXHIBIT A

Property Liable for Special Assessments	Amount of Special Assessments
UNIT 11, BROADWAY PLAZA CONDOMINIUM & 1/11TH UND. INT. IN COMMON AREAS & FACILITIES SITUATED ON LOTS 133, & 135, DOUGLAS AVE, GREIFFENSTEINS ADD.	$51,281.82

RECEIVED
CITY MANAGER'S OFFICE

FEB 8 - 2010

File _____
Route to _____

PETITION

TO: The Mayor and City Council
City of Wichita, Kansas (the "City")

As the owner(s) of record of property liable for assessment for the proposed improvement described herein, I/we do hereby request that the improvement be made in the manner provided by K.S.A. 12-6a01 *et seq.*, as follows:

(A) The improvement proposed to be made in the City is as follows:

Acquisition of façade improvements at 209 East William including glazing, stucco, granite, trim and painting on the ground level of the north and northwest elevations, abutting public ways, including Market Street and William Street.

(B) The estimated or probable cost of the proposed improvement is $257,474.

(C) The extent of the improvement district proposed to be assessed for the costs of the proposed improvement is:

Units 1 through 12, Sutton Place Condominium, on Lots 14, 16 and 18, on Market Street, in Grieffenstein's Addition to the City of Wichita, Sedgwick County, Kansas

(D) The method of assessment is: equally per square foot.

(E) The apportionment of the cost of the improvements, between the improvement district and the city-at-large, is: 100% to be assessed against the improvement district and 0% to be paid by the city-at-large.

I/We further request that the proposed improvement be made without notice and hearing as required by subsection (1) of K.S.A. 12-6a04.

_____

4829-7100-0325.1

Names may not be withdrawn from this Petition by the signers after the governing body begins consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

Signature	Printed or Typed Name	Date of Signature	Property Owned Within Improvement District
			Unit 1, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-001
	DAVID G LUNDBERG, MEMBER SUTTON, MN LLC	2-4-10	**Unit 2, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-002**
			Unit 3, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-003
			Unit 4, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-004
			Unit 5, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-005
	DAVID G LUNDBERG, MEMBER SUTTON, MN. LLC	2-4-10	**Unit 6, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-006**
	DAVID G LUNDBERG, MEMBER SUTTON, MN LLC	2-4-10	**Unit 7, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-007**
	DAVID G LUNDBERG, MEMBER SUTTON, MN LLC	2-4-10	**Unit 8, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-008**

4829-7100-0325.1

Names may not be withdrawn from this Petition by the signers after the governing body begins consideration of this Petition, or, later than seven (7) days after the filing hereof, whichever occurs first.

Signature	Printed or Typed Name	Date of Signature	Property Owned Within Improvement District
	DAVID G. LUNDBERG MEMBER SUTTON MN, LLC	2-4-10	**Unit 9, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-009**
	DAVID G LUNDBERG, MEMBER SUTTON, MN LLC	2-4-10	**Unit 10, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-010**
	DAVID G LUNDBERG, MEMBER SUTTON MN LLC	2-4-10	**Unit 11, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-011**
			Unit 12, Suttton Place Condominium on Lots 14-16-18, Market Street, Greiffensteins ADD; Tax Key #A-5496-012

4829-7100-0325.1

Verification

The undersigned hereby certifies that I circulated the petition and personally witnessed the signing of the petition by each person whose name appears thereon.

_____
Signature

Subscribed and sworn to before me this 4 day of Feb 2010

Jennifer Ann Parkos
NOTARY PUBLIC
State of Minnesota
My Commission Expires 1-31-2014

_____ [Seal]
Notary Public in and for said
County and State

My Commission Expires: 1-31-14

THIS PETITION was filed in the office of the City Clerk on _____, 20__.

_____
City Clerk

4829-7100-0325.1

Approved /Accepted by City Council

This _____

Wichita, Kansas
February 12, 2010
472-84536
OCA# 766021

City Clerk
Wichita, Kansas

Dear City Clerk:

Following is the amended cost of constructing:
Façade improvements at 208 S. Market (Kaufman Building)

Lump Sum Contract Amount	$245,555.81
Measured Items	$0.00
Change Orders	$0.00
Engineering & Inspection	$0.00
Engineering Administration	$4,914.76
Administration	$4,914.76
Publication	$162.35
Abstract	$20.00
Construction Cost	$255,567.68
Idle Fund Interest Estimated	$8,653.32
Temporary Financing Estimated	$0.00
TOTAL COST	$264,221.00

Respectfully Submitted,

James L. Armour

Jim Armour, P.E., City Engineer

Property: $264,221.00

Approved /Accepted by City Council

This _____

Wichita, Kansas
February 12, 2010
472-84680
OCA# 766031

City Clerk
Wichita, Kansas

Dear City Clerk:

Following is the cost of constructing:
Façade Improvements at 221 S. Broadway (Petroleum Building)

Lump Sum Contract Amount	$57,980.00
Engineering & Inspection	$0.00
Engineering Administration	$1,163.00
Administration	$1,163.00
Publication	$162.00
Abstract	$28.00
Construction Cost	$60,496.00
Debt Service Reserve	$6,999.00
Estimated Costs of Issuance	$4,274.00
TOTAL COST	$71,769.00

Respectfully Submitted,

James L. Armour

Jim Armour, P.E., City Engineer

Property: $71,769.00

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Reimbursement and Encroachment Agreement with Southern Star Central Gas Pipeline, Inc.

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Reimbursement and Encroachment Agreement.

Background: Water Utilities has owned, operated and maintained miles of the pipeline to transport the City's raw water supply wells located in the Equus Beds since the early 1950s. Water Utilities is in the process of expanding and increasing the size of the pipelines as part of the Aquifer Storage and Recovery Phase II project.

Analysis: There are three locations where the Southern Star Central Gas Pipeline easement crosses Water Utilities. These sections of the line will be replaced during Phase II construction activities. While working on the replacement, Southern Star's 3-inch gas line must be protected by a weld wrap. The reimbursement and encroachment agreement estimates the cost of this precaution to Southern Star at $28,587, which must be paid before work can be done in the easement. It is acknowledged that the actual costs of installing the weld wraps may be greater or less, than the estimate. Upon completion of the work, all reasonable costs incurred will be determined and either rebated or invoiced to the City. Additionally, the City will contractually require the pipeline contractor to add Southern Star as an insured to the pipeline contractor's policy.

Financial Considerations: Funding for these services is available in Capital Improvement Program W-549, Water Supply Plan.

Goal Impact: This will ensure efficient infrastructure by maintaining and optimizing public facilities and assets.

Legal Considerations: The Law Department has reviewed the Reimbursement and Encroachment Agreement and approved it as to form.

Recommendations/Actions: It is recommended that the City Council approve the Reimbursement and Encroachment Agreement with Southern Star Central Gas Pipeline and authorize the necessary signatures.

Attachments: Reimbursement and Encroachment Agreement with Southern Star Central Gas Pipeline, Inc.

SOUTHERN STAR
CENTRAL GAS PIPELINE

Southern Star Central Gas Pipeline, Inc.
4000 S. Seneca St.
Wichita, KS. 67217
Phone 316 529-6622

Tract: 22528, 31917, 22516 & 22518

Line: PA-1

Oct. 22, 2009

Mr. Doug Haney
MKEC
411 N. Webb Rd.
Wichita, KS. 67206

Re: Reimbursement and Encroachment Agreement, City of Wichita, ASR Project, Phase 2, in Sec. 9 and Sec. 7, Twp. 25 S, R 1 W & Sec. 12, Twp 25 S, R 2 W, Sedgwick Co., KS.

Dear Doug:

Enclosed is the above referenced agreement, which has been requested on behalf of the City of Wichita, covering the lands shown above. I have also enclosed a copy of the drawings and exhibits referred to in the agreement. Please forward to the City of Wichita for their signature. Please note that because the document will be recorded it must be approved by the City Council and signed by the Mayor.

Once the document has been signed please return it to me, at the address shown above, and I will forward everything to our headquarters in Owensboro, KY. for execution by our Mr. Bahnick and recording. I will ask our Owensboro staff to forward a copy of the recorded document to you once it is received.

Please contact me at 316 734-9073 if questions arise.

Sincerely,

Terry L. Blanding

Terry L. Blanding
Land Representative

Tract # T-22528, T-31917, T-22516 & T-22518 Line: PA-1
Sedgwick Co., Kansas

REIMBURSEMENT AND ENCROACHMENT AGREEMENT

THIS AGREEMENT, entered into by and between **Southern Star Central Gas Pipeline, Inc.**, formerly Williams Gas Pipelines Central, Inc., Williams Natural Gas Company, Northwest Central Pipeline Corporation and Cities Service Gas Company, a Delaware corporation with its principal place of business being 4700 KY Highway 56, P.O. Box 20010, Owensboro, Kentucky 42304, hereinafter referred to as "Company" and the **City of Wichita, Kansas,** 455 N. Main, 7th Floor, Wichita, Kansas 67202, a Kansas Municipal Corporation, hereinafter referred to as "City", WITNESSETH:

WHEREAS, Company is the owner of a 3.5 inch natural gas Pipeline and Right of Way Easements therefore covering the West Half of the Northwest Quarter, (W/2 of the NW/4), Section 9, Township 25 South, Range 1 West, according to a certain Right of Way Contract dated May 5,1951, and recorded in Misc. Book 275, at Page 326, on May 16, 1951, and a Cathodic Rectifier Easement covering the Northwest Quarter of the Northwest Quarter, (NW/4 of the NW/4), Section 9, Township 25 South, Range 1 West, dated July 14, 1972 and recorded in Book 25, at Page 1204, on August 3, 1972; and that certain Right of Way Easement covering the East Half of the Northwest Quarter (E/2 of the NW/4) of Section 7, Township 25 South, Range 1 West, dated May 3, 1951, and recorded in Misc. Book 275, at Page 316, on May 16, 1951; and that certain Right of Way Easement covering the South Half of the Northeast Quarter (S/2 of the NE/4) and the Northeast Quarter of the Northeast Quarter (NE/4 of the NE/4) of Section 12, Township 25 South, Range 2 West, dated May 4, 1951, and recorded in Misc. Book 275, at Page 320, on May 16, 1951, all in the Office of the Register of Deeds, Sedgwick County, Kansas; and,

WHEREAS, the City is the owner of a 24-inch water line, to be installed in the South Half of the Northeast Quarter, (S/2 of the NE/4), of Section 12, Township 25 South, Range 2 West; and a 66-inch water line to be installed in the East Half of the Northwest Quarter (E/2 of the NW/4), of Section 7; and 54-inch and 24-inch water lines to be installed in the West Half of the Northwest Quarter (W/2 of the NW/4), of Section 9, both in Township 25 South, Range 1 West, Sedgwick City, Kansas, and,

WHEREAS, the City proposes to install the 24-inch water line in Section 12 within a right of way and extra workspace totaling 80-feet, and a 60-inch water line in Section 7 within a right of way and extra workspace totaling

150.5-feet, and 54-inch and 24 inch water lines in Section 9 within a right of way and extra workspace totaling 120-feet, in such a manner as to conflict, interfere with, and encroach on, Company's easement rights; and

WHEREAS, the Company has determined that it will be necessary to install weld wraps on each of the welds within the waterline right of way and extra workspace areas identified in the preceding paragraph, at the sole cost and expense of the City, to insure the safety and integrity of the Company's pipeline in order to accommodate the proposed water line installations, as shown on drawing C.B1.26, titled Line B1-1, Diagonal Transmission Main, Sta. 326+00 to Sta. 340+00; drawing C.B1.45, titled Line B1-3, River Intake Line, Sta. 117+00 to Sta. 129+00; drawing C.B1.55, titled Line B1-4, Residuals Return Line, Sta. 118+00 to Sta. 130+50; and drawing C.B1.58, titled Pressure Control Line, Sta. 19+00 to Sta. 24+75, all dated 8-14-09 and prepared by MKEC; and

WHEREAS, under the terms of this agreement Company is willing to permit the water line crossing installations across its Right of Way at the locations identified above, under the following terms and conditions,

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties, Company and the City agree as follows:

1. Under the terms of this Agreement, Company will install weld wraps across the full width of the waterline easement and extra workspace areas at each of the 3 crossings of the Company's 3.5 inch pipeline, as referenced above, and as shown on Exhibit 1, titled, Detail at Locations Where Wichita Water Utilities Pipelines Will Cross Southern Star Central Gas Pipeline (City of Wichita ASR Phase 2: Bid Package B1 Pipeline), prepared by MKEC, which is incorporated herein by reference,

2. City agrees to install the proposed water lines below the Company's existing 3.5-inch pipeline with a minimum of 24-inches of clearance between the bottom of the Company's pipeline and the top of the waterlines. This depth will be maintained across the full width of the Company's right of way, that being 33-feet on the northerly side and 33-feet on the southerly side of the pipeline, in accordance with Company Standard Drawing, STD-ENC-PX-FP, which is attached hereto an made a part hereof.

3. City agrees to presently pay Company for 100% of the estimated cost incurred for installation of the weld wraps. The estimated cost for said work is $28,587.00, cash in hand paid, the receipt of which is hereby acknowledged by Company. A copy of the detail cost estimate is marked as Exhibit "A" and is attached hereto and made part hereof. Payment shall be made to: Southern Star Central Gas Pipeline Inc., Attn: Diane Bowers, P.O. Box 20010, Owensboro, KY. 42304,

4. The parties hereto acknowledge that the actual reasonable costs of installing the weld wraps may be

greater or less than the estimated costs. Upon completion of said work, all reasonable costs incurred which are associated with said work by Southern Star, forces and/or by a contractor, will be determined by Southern Star accounting personnel. Should said actual costs be less than the above-estimated amount, Company will rebate the difference between the actual reasonable cost and the above-estimated costs of $28,587.00 to City. In the event the actual reasonable cost exceeds the estimated costs, City will be invoiced accordingly.

5. City shall be permitted to have an inspector present at all times during the installation of weld wraps on the Company's pipeline.

6. In the event the actual reasonable costs incurred for the work performed to install the weld wraps exceeds the estimated amount as stated in the above paragraph No. 3, Company will forward an itemized invoice to City reflecting the amount equal to 100% of the actual costs incurred above the estimated amount, as stated in the above paragraph No. 3, and City agrees that said invoice will be paid within Thirty (30) days of receipt of same. The City agrees to pay all actual costs other than those which may be arbitrary and capricious.

7. Company shall have the right to stop its relocation work, without obligation or liability, in the event the City fails to make additional advances as requested by Company.

8. In the event the City, for whatever reason, requires additional work to be done or material to be used by Company not contemplated by or included in Company's estimate attached hereto, the City agrees to pay Company all reasonable additional direct and indirect costs incurred by Company to satisfy such additional requirements made by the City.

9. Subject to natural gas throughput commitments Company will endeavor to commence performance of the work contemplated by this Agreement as soon as reasonably possible, provided that Company shall not be obligated to commence or continue performance of the work in the event, in Company's opinion, weather conditions or an event of force nature prevents such work from being performed performed by Company or its contractor. In no event shall Company be liable for any consequential or incidental damages to the City or any other person or entity, including, without limitation, any third party beneficiary.

10. It is also agreed that the City shall notify Company at least 48 hours prior to commencing any work on Company's easement by calling the Kansas One-Call System at 1 800 344-7233.

11. The parties agree to indemnify, save and defend each other and any parent and affiliates and the employees, officers, directors and agents thereof, harmless from and against any loss, cost or expense incurred by the other party, including without limitation losses resulting from claims for damages to property or injuries to or deaths of persons, judgments, or are claimed to have arisen out of the construction, operations of the acting party, its contractors and subcontractors, on the Company easement described above.

12. The City acknowledges that the natural gas pipeline is cathodically protected and hereby relieves Company of any liability for damage to any encroachments that currently exist, or that may exist in the future, due to said cathodic protection.

13. The terms of this agreement shall constitute covenants running with the land and be binding upon and inure to the benefit of the parties hereto, or their successors and assigns. The obligations of both parties herein shall survive the termination of this agreement.

14. Prior to commencement of construction of the facilities described herein, City will contractually require for the Company to be added as an additional insured to the contractor's policy and shall provide Company certificates of insurance expressly naming Southern Star Central Gas Pipeline, Inc. as an additional insured and evidencing coverage in the amount of one million dollars ($1,000,000.00)general liability, and one million dollars ($1,000,000.00) auto liability, and one million dollars ($1,000,000.00) workers compensation and employers liability insurance for the construction of the facilities described herein, and containing thirty (30) days prior written notice of cancellation.

Invoices for work completed under this agreement shall be sent to the City of Wichita, KS. at the following address:

Attn. Leslie Hicks, Engineer 7th Floor, City of Wichita 455 N. Main, Wichita, KS 67202

IN WITNESS WHEREOF, we hereunto set our hands and seals on the day and year indicated below our signatures.

SOUTHERN STAR CENTRAL GAS PIPELINE, INC.

_____

Robert S. Bahnick, Sr. Vice-President
Operations and Technical Services

Date: _____

THE CITY OF Wichita KANSAS
BY ACTION OF THE CITY COUNCIL

By: _____
Carl Brewer, Mayor

Date: _____

CORPORATE ACKNOWLEDGEMENT

STATE OF KENTUCKY

COUNTY OF DAVIESS

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this _____day of _____, 2009, personally appeared Robert S. Bahnick, who being by me duly sworn, did say that he is the Senior Vice President, Operations and Technical Services of Southern Star Central Gas Pipeline, Inc., a corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Robert S. Bahnick acknowledged said instrument to be the free act and deed of said corporation.

In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

_____
Notary Public

My Commission Expires_____, 20_____.

CORPORATE ACKNOWLEDGEMENT

STATE OF KANSAS

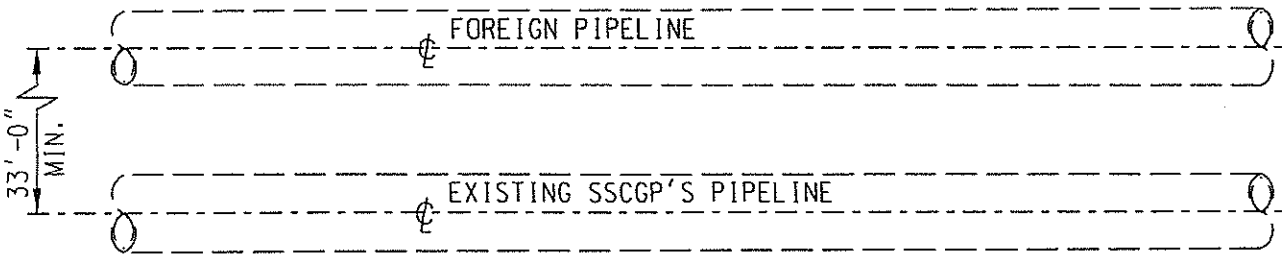
COUNTY OF SEDGWICK

Before me, the undersigned, a Notary Public duly commissioned in and for the city and state aforesaid, on this _____ day of _____, 2009, personally appeared, Carl Brewer, who being duly sworn, did say that he is the Mayor of the City of Wichita, Kansas, a Kansas Municipal Corporation, and that said instrument was signed on behalf of said city by authority of its City Council, said Carl Brewer, acknowledged said instrument to be the free act and deed of said City.

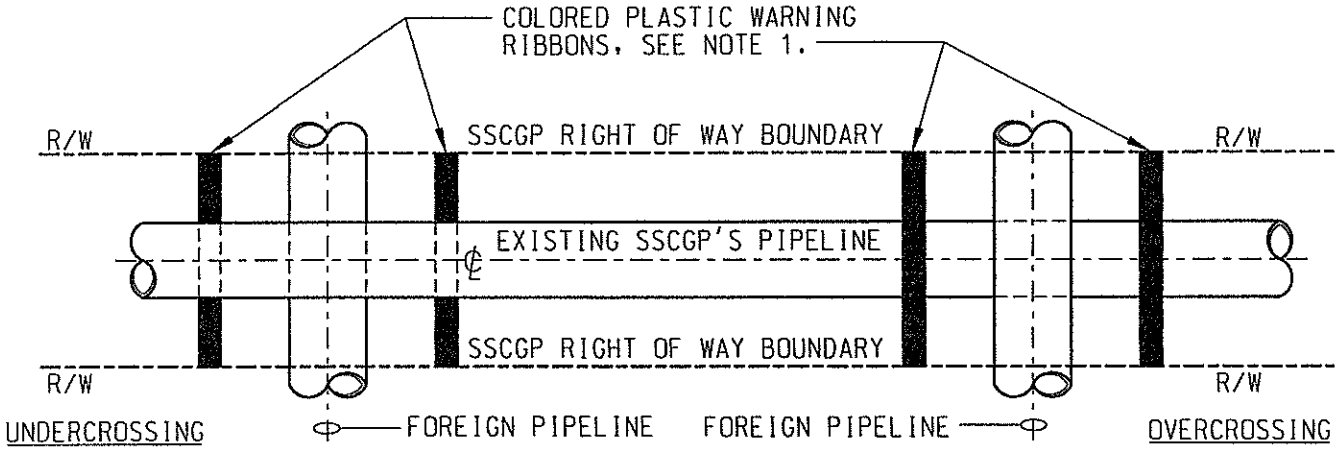
In testimony whereof, I have hereunto set my hand and affixed my official seal at my office in said city and state the day and year above written.

_____
Notary Public

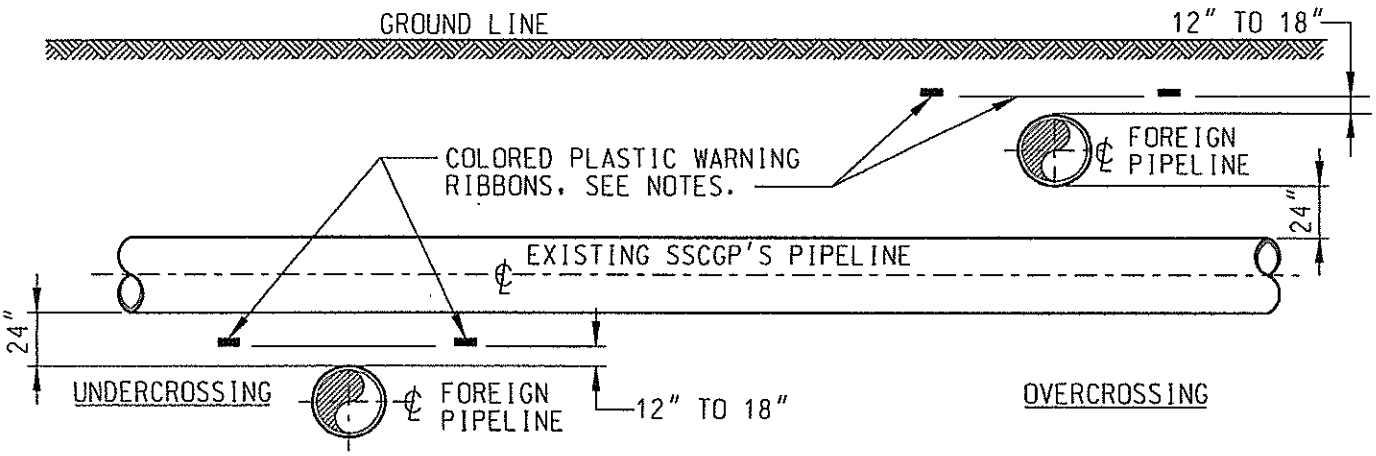
My Commission Expires: _____, 20_____.



PLAN VIEW - PARALLEL INSTALLATION



PLAN VIEW - CROSSING INSTALLATION



ELEVATION - CROSSING INSTALLATION

NOTES:

DURING BACKFILL OPERATIONS, A COLORED PLASTIC RIBBON SHALL BE LAID 12" TO 18" ABOVE THE FOREIGN PIPELINE IN BOTH SIDES OF THE DITCH THE ENTIRE WIDTH OF SSCGP'S RIGHT OF WAY. HYDROCARBON, GAS OR LIQUID LINES ARE TO BE MARKED WITH SAFETY YELLOW, WATER, IRRIGATION OR SLURRY LINES WITH SAFETY BLUE, AND SEWERS AND DRAIN LINES WITH SAFETY GREEN.

SOUTHERN STAR
CENTRAL GAS PIPELINE

STANDARD ENCROACHMENT DETAILS
FOR INSTALLATION OF FOREIGN PIPELINE PARALLEL
TO OR CROSSING EXISTING SSCGP GAS PIPELINE

DRAWN BY: GLS	DATE: 05-04-2004	REV.	DATE	BY	DESCRIPTION	APP	SCALE: 1" = 1'-0"
CHECKED BY:	DATE:	0	05-05-2004	GLS	REVISED PER SSCGP STANDARDS	RDH	P.I.N.
APPROVED BY: RDH	DATE: 05-28-2004	1	11-05-2007	DSK	REPLACED STD. DWG. 005-079-A-0153	RDH	DWG. NO. STD-ENC-PX-FP

Exhibit A
SOUTHERN STAR CENTRAL GAS PIPELINE
Weld Wrap Installation on Line PA-1
Bentley and Sedgwick, KS

COST ESTIMATE
10/15/2009

SUMMARY

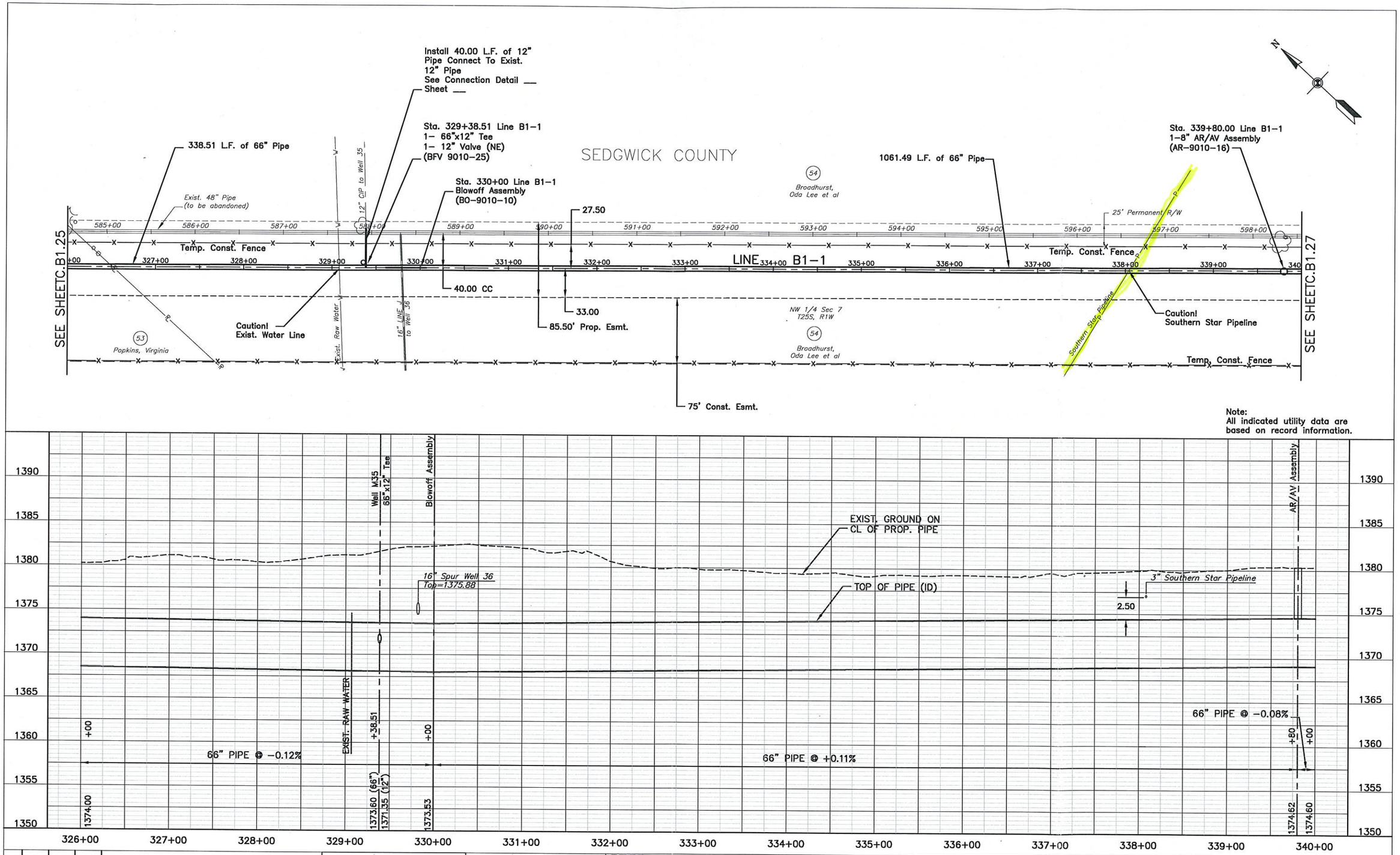
Scope: Provide (from inventory) 15 each weld wraps 3.5" x 5/16" and install on line PA-1.

Assumptions:
1. SSCGP will provide materials, equipment, operators, welders and trucks for this project.
2. Work to be performed in Wichita Water Department Construction Zone.
3. There are no utilities to be relocated.
4. There is no NDT or hydro required.
5. Surveying not included.
6. There is no design engineering included.
7. SSCGP will apply coating as required.

Note: Estimate should be revisited if not accepted within 60 days.

Estimate is based on 2009 dollars and includes a contingency of 10%

Category				Estimated Final
Materials				$10,375
Construction				
Survey				
Right - of - Way				
Legal & Public Affairs				
Environmental				
Inspection				
Engineering				
Southern Star				$12,673
AFUDC				$174
A&G Overhead				$2,766
Contingency				$2,599
TOTAL				$28,587



REV	DATE	BY	APP	DESCRIPTION

ASR PRESERVING OUR WATER FOR THE FUTURE

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

DESIGNED D. Lancaster
DRAWN K. Lidgett
REVIEWED
CHECKED
APPROV

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING.
0 1"
DRAWING IS NOT TO SCALE

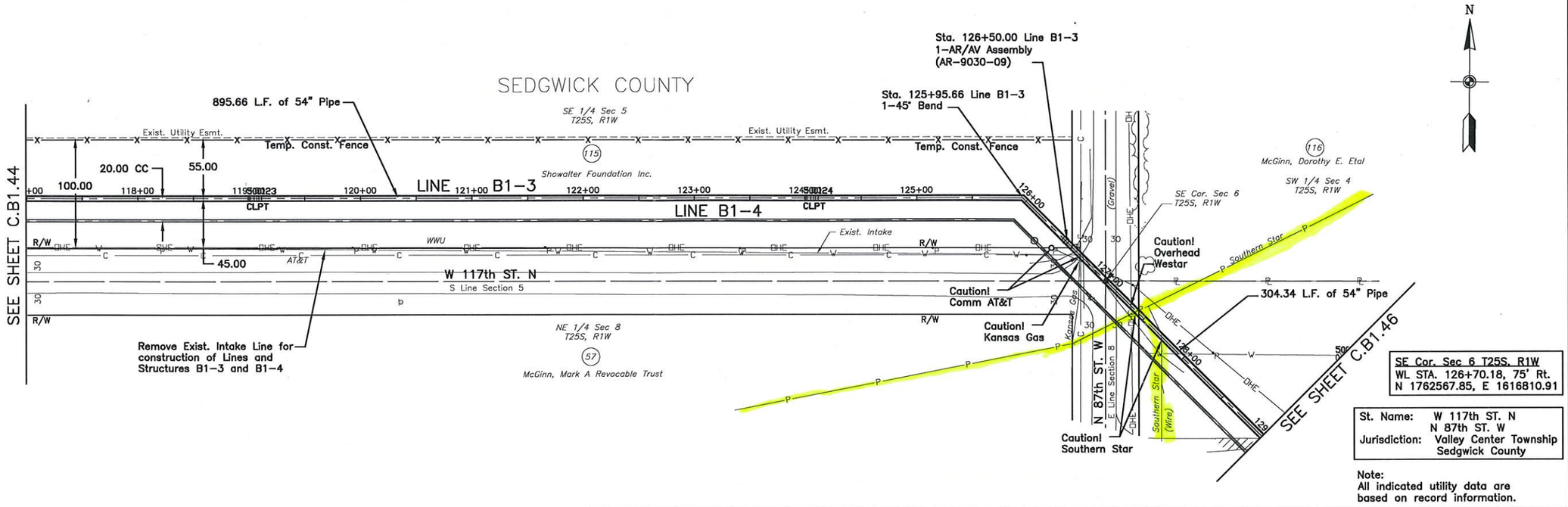
60% Design Not For Construction

DIAGONAL TRANSMISSION MAIN AND RAW WATER TRANSMISSION MAIN
LINE B1-1
DIAGONAL TRANSMISSION MAIN
STA. 326+00 TO 340+00

CITY OF WICHITA PROJ. NO. 788013
OCA PROJECT NO. 633972

SCALE: H:1"=50'; V:1"=5'
DATE: 08/14/2009
DRAWING NO. C.B1.26
SHEET NO. ##

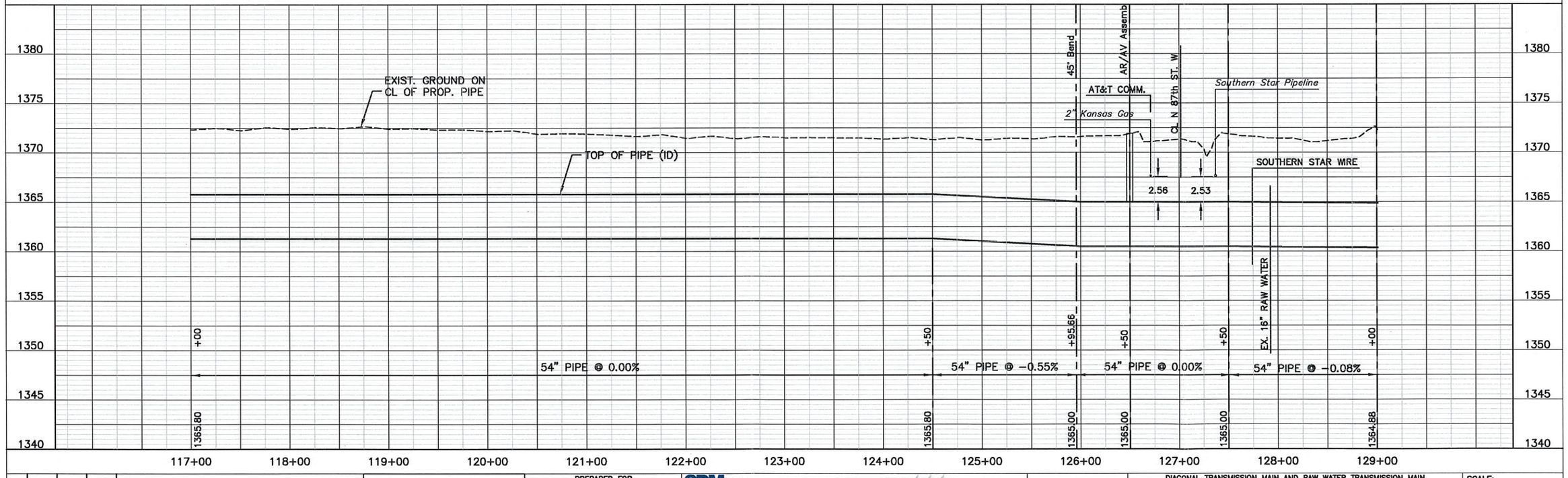
Saved 08-13-2009 7:26:38 PM by MASOND
Plot Scale 1:1.91 08-14-2009 9:00:51 AM by JEFF COOY
J:\Civil\08246\dwg\WATER\DESIGN\60%SUBMIT\788013_C1-1_26
XREFS: $(XREFS)??



SE Cor. Sec 6 T25S, R1W
WL STA. 126+70.18, 75' Rt.
N 1762567.85, E 1616810.91

St. Name: W 117th ST. N
N 87th ST. W
Jurisdiction: Valley Center Township
Sedgwick County

Note:
All indicated utility data are based on record information.



REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

DESIGNED
DESIGN D. Lancaster
DRAWN K. Lidgett
REVIEWED
CHECKED
APPROV

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING, 0 1"
DRAWING IS NOT TO SCALE

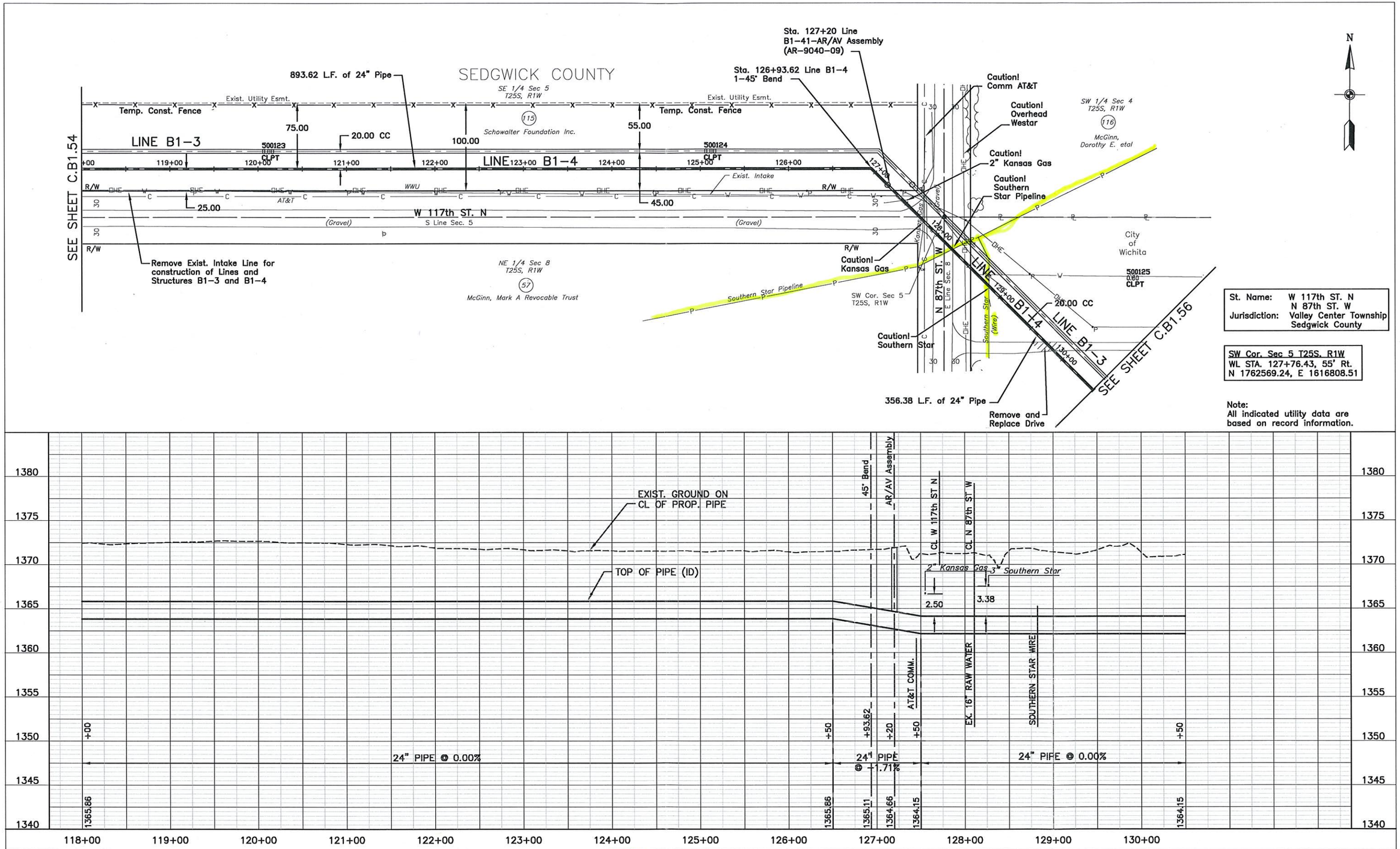
60% Design Not For Construction

DIAGONAL TRANSMISSION MAIN AND RAW WATER TRANSMISSION MAIN
LINE B1-3
RIVER INTAKE LINE
STA. 117+00 TO 129+00

CITY OF WICHITA
PROJ. NO. 788013
OCA PROJECT NO. 633972

SCALE: H:1"=50'; V:1"=5"
DATE: 08/14/2009
DRAWING NO. C.B1.45
SHEET NO. ##

Saved: 08-13-2009 6:36:00 PM by LANCASTD
Plot Scale: 1:1 51.8-14-2009 1:37:40 AM by JEFF CODY
J:\Civil\08246\dwg\WATER\DESIGN\60%SUBMIT\788013_C1-3_09
XREFS: $(XREFS)??



REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

DESIGNED
DESIGN D. Lancaster
DRAWN K. Lidgett

REVIEWED
CHECKED
APPROV

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING.
0 1"
DRAWING IS NOT TO SCALE

60% Design Not For Construction

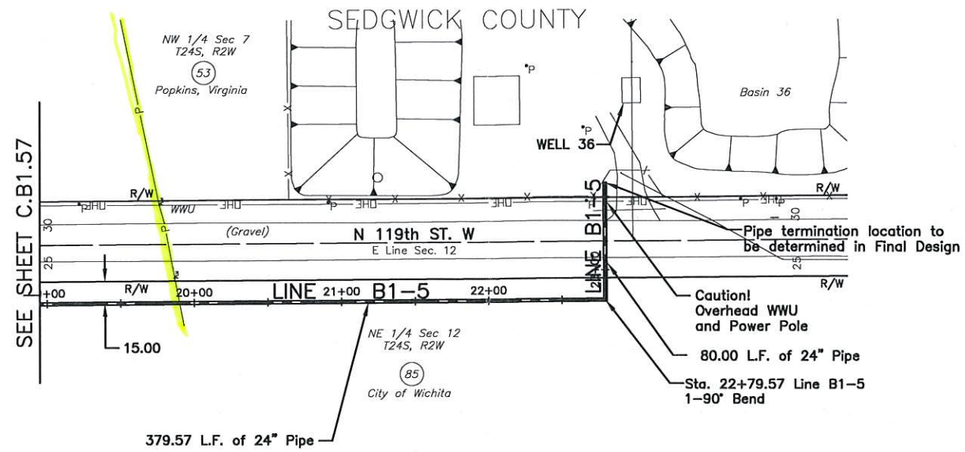
DIAGONAL TRANSMISSION MAIN AND RAW WATER TRANSMISSION MAIN
LINE B1-4
RESIDUALS RETURN LINE
STA. 118+00 TO 130+50

CITY OF WICHITA
PROJ. NO. 788013

OCA PROJECT NO.
633972

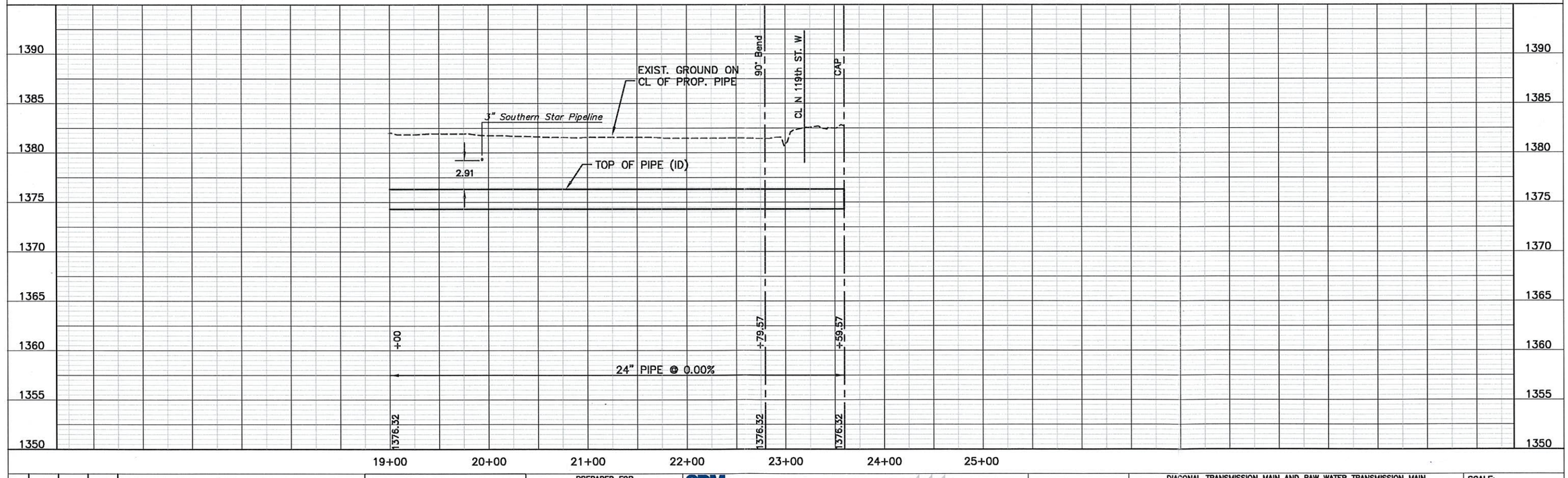
SCALE: H:1"=50'; V:1"=5"
DATE: 08/14/2009
DRAWING NO. C.B1.55
SHEET NO. ##

Saved 08-13-2009 8:50:05 PM by LANCASTD
Plot Scale: 1:1 (X:1.0000 Y:1.0000) by JEFF CODY
File: C:\WINDOWS\temp\AcPublish_1628\B1-4_09.dwg
Layout: C.B1.55 (By: WATER\DESIGN\DESIGNMAP\788013_C1-4_09 XREFS: $XREFS)



St. Name:	N 119th ST. W
Jurisdiction:	Eagle Township Sedgwick County

Note:
All indicated utility data are based on record information.



REV	DATE	BY	APP	DESCRIPTION

ASR

PREPARED FOR
WICHITA WATER UTILITIES

CDM
Camp Dresser & McKee
345 Riverview, Ste. 520
Wichita, KS 67203
Tel: (316) 660-6700
consulting • engineering • construction • operations

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

DESIGNED
DESIGN D. Lancaster
DRAWN K. Lidgett

REVIEWED
CHECKED
APPROV

VERIFY SCALE
IF BAR IS NOT ONE INCH ON ORIGINAL DRAWING.
0 1"
DRAWING IS NOT TO SCALE

60% Design Not For Construction

DIAGONAL TRANSMISSION MAIN AND RAW WATER TRANSMISSION MAIN

LINE B1-5
PRESSURE CONTROL LINE
STA. 19+00 TO 24+75

CITY OF WICHITA
PROJ. NO. 788013

OCA PROJECT NO.
633972

SCALE: H:1"=50'; V:1"=5"
DATE: 08/14/2009
DRAWING NO. C.B1.58
SHEET NO. ##

Saved 08-13-2009 5:51:53 PM by CODY
Plot Scale: 1:1 (H:1=50'; V:1=5') 8.5x11 by JEFF CODY
J:\CIVIL\WORK\Wwp\WATER\DESIGN\633972\BUILD\788013_C1-5_02
XREFS:

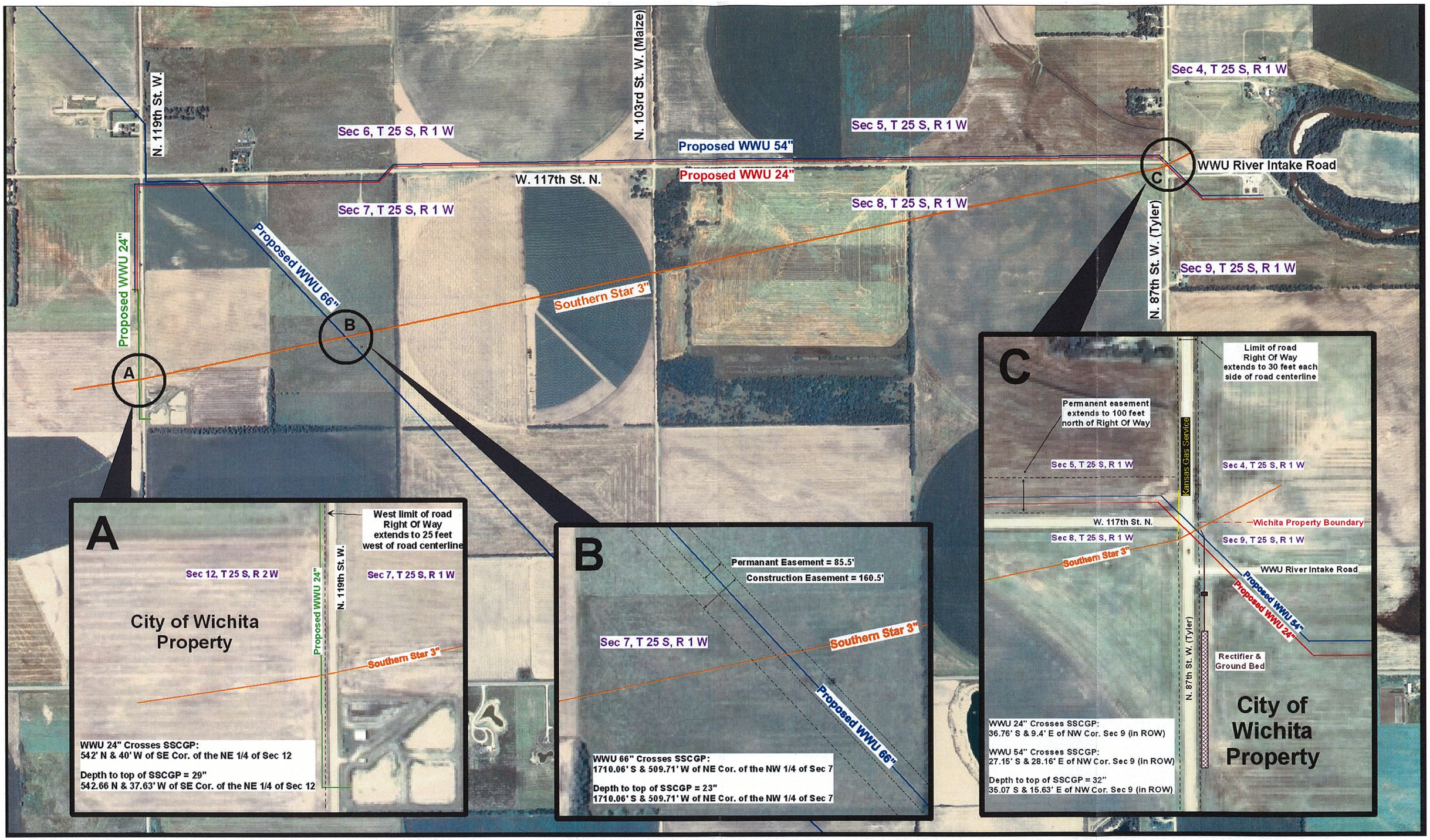


EXHIBIT 1: Details at Locations Where Wichita Water Utilities Pipelines Will Cross Southern Star Central Gas Pipelines

(City of Wichita ASR Phase 2: Bid Package B1 Pipeline)

MKEC ENGINEERING CONSULTANTS, INC.

Agenda Item No. XII-

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Amendment of Lease for Antenna Site at McDonald Golf Course (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sale and authorize negotiation of a real estate purchase agreement.

Background: On December 19, 2000, the City Council approved a lease for a tower to provide wireless service to be located in McDonald Golf Course. Rent was $700 per month ($8,400 per year) increasing 3% annually. If three users were placed on the tower, additional rent of $150 per month would be owed. The term of the lease was five years with three five year options. The current term expires in January 2011 with two additional five year terms remaining. The tenant has requested that the lease term be amended to add three additional five year terms.

Analysis: Current monthly rent, including additional rent for a third user is $1,082.17 per month ($12,986 per year). The tenant proposes to increase the rent to $1,188 per month ($14,256 annually) in exchange for the additional lease terms. This rent will increase at 3% annually pursuant to the lease terms. All other terms and conditions of the lease remain the same.

Financial Considerations: The City will receive increased lease revenues as described above. No additional costs or obligations are assumed by the City.

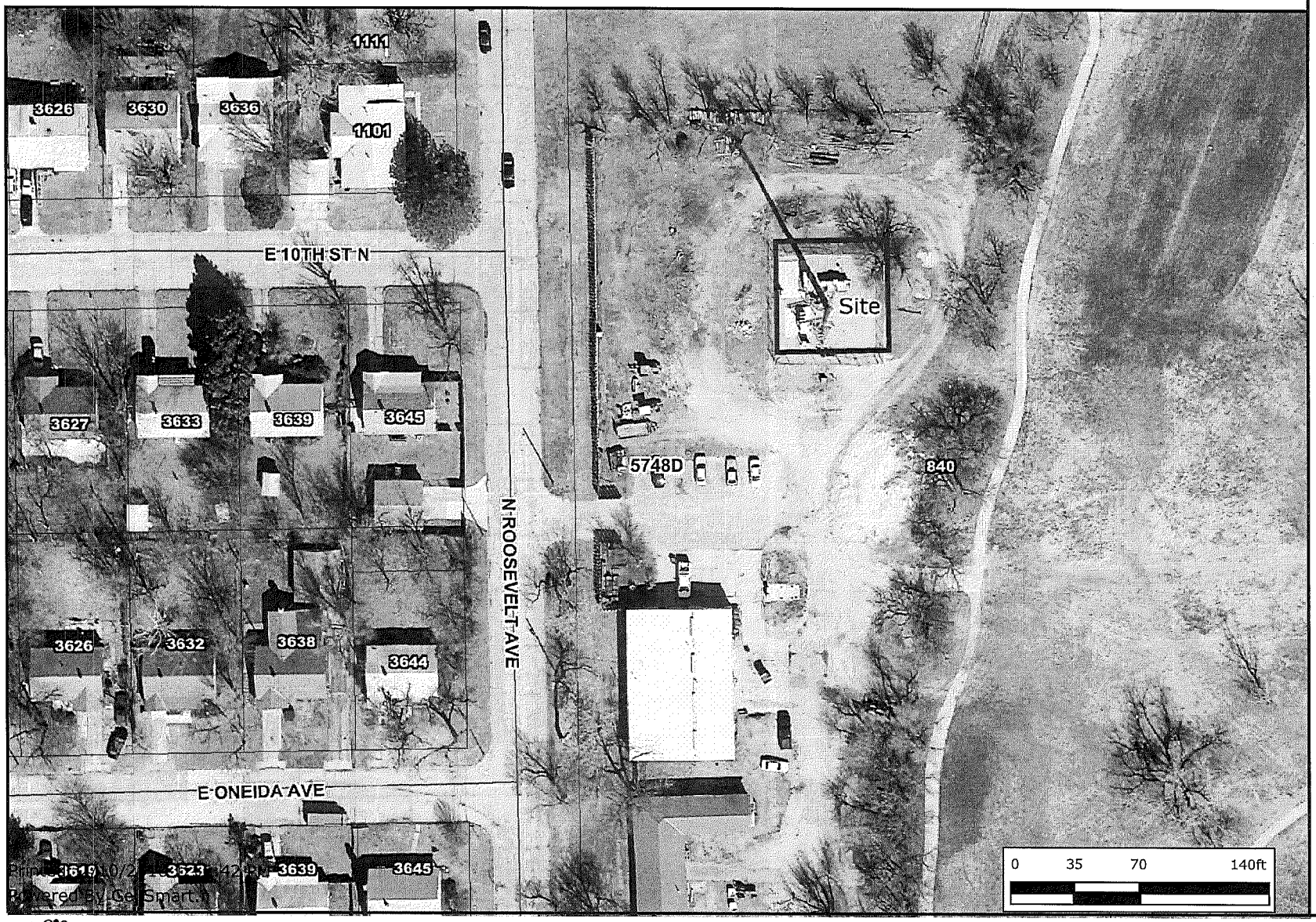
Goal Impact: The proposed lease amendment insures efficient infrastructure by optimizing the use of public assets and providing additional communications capacity in the area.

Legal Considerations: The Law Department has approved the lease amendment as to form.

Recommendation/Action: It is recommended that the City Council approve the lease amendment and authorize all necessary signatures.

Attachments: Aerial, Lease Amendment

Cell Tower Site - McDonald Golf Course



- Identified Features
- Property Parcels

Roads

- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Airports

SDERASTER.SDEDATA.ORTHO1FT

SDERASTER.SDEDATA.ORTHO

City Limits

- Andale
- Bel Aire
- Bentley
- Cheney
- Clearwater
- Colwich
- Derby
- Eastborough
- Garden Plain
- Goddard
- Haysville
- Kechi
- Maize
- Mount Hope
- Mulvane

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.

Site: McDonald-Wichita
BUN: 873820

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (the "Amendment") is made effective this _____ day of _____, 2010, by and between **THE CITY OF WICHITA**, a municipal corporation ("Owner"), whose address is 455 N. Main Street, 13th Floor, Wichita, Kansas 67202, and **PINNACLE TOWERS ACQUISITION LLC**, a Delaware limited liability company ("Tenant"), successor in interest to Horizon Telecommunications, Inc., a Texas corporation ("Horizon"), with its principal place of business located at 2000 Corporate Drive, Canonsburg, Pennsylvania 15317.

RECITALS:

WHEREAS, Owner and Tenant are the current parties under that Lease Agreement dated December 19, 2000 (the "Agreement"), originally by and between Owner and Horizon, a memorandum of which was recorded on July 2, 2001, in Film 2230, Page 350 in the Public Records for Sedgwich County, Kansas; whereby Horizon leased certain real property from Owner, together with access and utility easements that is more particularly described on **Exhibit "A"** (the "Site"), located in Sedgwick County, Kansas, which is located on a portion of Owner's property (the "Parent Parcel");

WHEREAS, the Agreement was assigned from Horizon to Lattice Communications, LLC, a Delaware limited liability company ("Lattice") pursuant to that certain Assignment and Assumption of Lease Agreement dated April 4, 2001 and recorded on October 12, 2001 in Film 2301, Page 224 in the Public Records of Sedgwick County, Kansas;

WHEREAS, the Agreement was further assigned from Lattice to Tenant pursuant to a Bill of Sale and Assignment and Assumption Agreement dated October 24, 2004 and recorded on November 3, 2004 in Document Number 28621688 in the Public Records of Butler County, Kansas;

WHEREAS, the Site may be used for the purpose of installing, removing, replacing, modifying, maintaining and operating a communications facility, including, without limitation, antenna equipment, cable wiring, back-up power sources (including generators and fuel storage tanks), related fixtures and, if applicable to the Site, an antenna structure;

WHEREAS, the Agreement has an original term (including all extension terms) that will terminate on December 18, 2020 ("Original Term") and Owner and Tenant desire to amend the terms of the Agreement to provide for additional terms beyond the Original Term; and

WHEREAS, Owner and Tenant desire to further amend the Agreement on the terms and conditions contained herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Owner and Tenant agree as follows:

1. Defined Terms. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

2. Modified, Deleted or Replaced Sections or Sentences.

(a) The first (1st) sentence of Section 3 of the Agreement is deleted in its entirety and the following language shall be substituted in lieu thereof:

"This lease may be extended for six (6) five (5) year periods at Lessee's option."

3. Rent. Effective on the first (1st) day of the second (2nd) month following full execution of this Amendment, the monthly base rent shall increase to One Thousand Twenty Five and 00/100 Dollars ($1,025.00) per month.

4. Notice. The parties agree and acknowledge that all notices provided to Tenant pursuant to the Agreement shall be sent to the following address:

Pinnacle Towers Acquisition LLC
c/o Crown Castle USA Inc.
E. Blake Hawk, General Counsel
Attn: Real Estate Department
2000 Corporate Drive
Canonsburg, PA 15317

5. Ratification. Owner and Tenant agree that any and all actions or inactions that have occurred or should have occurred prior to the date of this Amendment are approved and ratified by the parties and the parties agree that no breaches or defaults exist as of the date of this Amendment.

6. Remainder of Agreement Unaffected. In all other respects, the remainder of the Agreement and all amendments thereto shall remain in full force and effect. Any portion of the Agreement and all amendments thereto that are inconsistent with this Amendment are hereby amended to be consistent.

7. Owner's Representation. Owner represents and warrants that Owner is duly authorized and has the full power, right and authority to enter into this Amendment and to perform all of its obligations under the Agreement and to execute and deliver all documents.

WITNESS WHEREOF, Owner and Tenant have executed this Amendment as of the date first written above.

OWNER:
By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

TENANT:

PINNACLE TOWERS ACQUISITION LLC, a Delaware limited liability company

By: _____
Name: _____
Its: _____

Site: McDonald-Wichita
BUN: 873820
DET02\342104.1
ID\DMGR - 101460/0999

EXHIBIT "A"

LEGAL DESCRIPTION OF THE SITE

TOWER TRACT DESCRIPTION(McDONALD-WICHITA BUN#873820)
THAT PART OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 27 SOUTH, RANGE 1 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS, AND BEING A PORTION OF LOT 5, BLOCK 1 AND RESERVE A, OVER THE VACATED PORTION OF FRISCO HEIGHTS 2ND ADDITION TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS, BEING PART OF THE PROPERTY OWNED BY THE BOARD OF PARK COMMISIONERS OF THE CITY OF WICHITA, KANSAS, DEED BOOK 2230 PAGE 350 (TAX ID: 126-14-0-12-01-001.00)DESCRIBED AS COMMENCING AT A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER, 541.4 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER, AND BEING A POINT ON THE CENTER LINE OF DICKENS STREET, NOW ROOSEVELT AVENUE, AS PLATTED IN SAID FRISCO HEIGHTS 2ND ADDITION; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER, 670 FEET; THENCE EAST AT RIGHT ANGLES, 140 FEET FOR A PLACE OF BEGINNING;
THENCE, N00°45'41"W, 60.00 FEET;
THENCE, N89°13'21"E, 60.00 FEET;
THENCE, S00°45'41"E, 60.00 FEET;
THENCE, S89°13'21"W, 60.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING 3,600 SQUARE FEET, MORE OR LESS.
20' ACCESS EASEMENT DESCRIPTION(McDONALD-WICHITA BUN#873820)
A TRACT OF LAND 20 FEET IN WIDTH BEING 10 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 27 SOUTH, RANGE 1 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS, AND BEING A PORTION OF LOT 5, BLOCK 1 AND RESERVE A, OVER THE VACATED PORTION OF FRISCO HEIGHTS 2ND ADDITION TO WICHITA, KANSAS, SEDGWICK COUNTY, KANSAS BEING PART OF THE PROPERTY OWNED BY THE BOARD OF PARK COMMISIONERS OF THE CITY OF WICHITA, KANSAS, DEED BOOK 2230 PAGE 350 (TAX ID: 126-14-0-12-01-001.00)
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THENCE, S78°52'47"W, 119.41 FEET, TO A POINT ON THE EAST LINE OF ROOSEVELT AVE., FOR A TERMINUS.

CONTAINING 3660 SQUARE FEET. MORE OR LESS.

Site: McDonald-Wichita
BUN: 873820
DET02\342104.1
ID\DMGR - 101460/0999

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THENCE, S31°57'20"W, 18.96 FEET;

THENCE, S71°20'16"W, 126.05 FEET, TO A POINT ON THE EAST LINE OF ROOSEVELT AVE., FOR A TERMINUS.

CONTAINING 1450 SQUARE FEET, MORE OR LESS.

Tax Parcel Identification Number: 126-14-0-12-01-001.00
Common Address: 1036 N. Roosevelt Blvd., Wichita, Kansas 67208

MEMORANDUM OF AMENDMENT

This document was prepared by:

DYKEMA GOSSETT PLLC
Danielle M. Graceffa, Esq.
400 Renaissance Center
Detroit, Michigan 48243
(313) 568-6800

After recording return to:

_____
_____
_____
(____)_____

See **Exhibit A** for Common Addresses and P.I.N.s

Above Space for Recorder's Use Only

This Memorandum of Amendment (the "Memorandum") is made this _____ day of _____ _____, 2010, by and between **THE CITY OF WICHITA**, a municipal corporation ("Owner"), whose address is 455 N. Main Street, 13th Floor, Wichita, Kansas 67202, and **PINNACLE TOWERS ACQUISITION LLC**, a Delaware limited liability company ("Tenant"), successor in interest to Horizon Telecommunications, Inc., a Texas corporation ("Horizon"), with its principal place of business located at 2000 Corporate Drive, Canonsburg, Pennsylvania 15317.

RECITALS

WHEREAS, Owner and Tenant are the current parties under that certain Lease Agreement dated December 19, 2000 (the "Agreement"), originally by and between Owner and Horizon, a memorandum of which was recorded on July 2, 2001, in Film 2230, Page 350 in the Public Records for Sedgwich County, Kansas; whereby Horizon leased certain real property from Owner, together with access and utility easements that is more particularly described on **Exhibit "A"** (the "Site"), located in Sedgwick County, Kansas, which is located on a portion of Owner's property (the "Parent Parcel");

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WHEREAS, the Agreement was further assigned from Lattice to Tenant pursuant to a Bill of Sale and Assignment and Assumption Agreement dated October 24, 2004 and recorded on November 3, 2004 in Document Number 28621688 in the Public Records of Butler County, Kansas; and

Site: McDonald-Wichita
BUN: 873820
DET02\328333.2
ID\DMGR - 101460/0128

WHEREAS, the parties have modified the terms of the Agreement by that certain First Amendment to Lease Agreement dated the same date as this Memorandum, and wish to provide record notice of the existence of the Agreement as amended thereby (hereafter, the Agreement is referred to as the "Amended Agreement") and the status of certain rights and interests thereunder through the recording of this Memorandum in the Public Records.

OPERATIVE PROVISIONS

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Tenant hereby agree as follows:

1. The recitals hereinabove are true and correct and are incorporated herein by this reference.
2. Owner hereby acknowledges, ratifies, and confirms Tenant's interest in and to the Amended Agreement.
3. Owner and Tenant certify that the Amended Agreement is in full force and effect, and that as of the date hereof, there are no current defaults or breaches under the Amended Agreement by Owner and/or Tenant. Further, Owner and Tenant are not aware of any events which have occurred which, with the passage of time or service of notice, or both, would constitute a default under the Amended Agreement and that Owner and Tenant have full right to execute and deliver this instrument.
4. The terms and provisions of the Amended Agreement are hereby restated and incorporated herein by this reference.
5. The Amended Agreement provides that the initial term of the Amended Agreement is five (5) years, commencing on December 19, 2000, with six (6) renewal terms of five (5) years each. The term of the Amended Agreement, including all renewal terms, if exercised, will terminate on December 18, 2035.
6. The parties consent to the recording of this Memorandum in the Public Records of the county in which the Site is situated, and agree that this Memorandum shall be executed in recordable form.
7. This Memorandum may be executed in counterparts, each of which shall constitute an original instrument.

[Remainder of page intentionally left blank; signatures to follow]

WITNESS WHEREOF, Owner and Tenant have executed this Memorandum as of the date first written above.

OWNER:
By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

The foregoing was acknowledged before me this ____ day of _____, 2010, by Carl Brewer and Karen Sublett, the Mayor and City Clerk of the City of Wichita, a municipal corporation, on behalf of the municipal corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

_____
Notary Public

My Appointment Expires:

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

TENANT:

PINNACLE TOWERS ACQUISITION LLC, a Delaware limited liability company

By: _____
Name: _____
Its: _____

STATE OF TEXAS)
) SS
COUNTY OF HARRIS)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____ personally known to me to be the _____ of Pinnacle Towers Acquisition LLC, a Delaware limited liability company, on behalf of the limited liability company, he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

_____

Notary Public, State of Texas, County of Harris
Acting in the County of _____
My Commission Expires:

Site: McDonald-Wichita
BUN: 873820
DET02\328333.2
ID\DMGR - 101460/0128

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CONTAINING 1450 SQUARE FEET, MORE OR LESS.

Tax Parcel Identification Number: 126-14-0-12-01-001.00
Common Address: 1036 N. Roosevelt Blvd., Wichita, Kansas 67208

Agenda Item No. _____

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Proposed 2010 Contract Street Maintenance Program

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Contract Street Maintenance Program.

Background: Each year, funding is allocated in the City's operational budget for contract repairs and resurfacing of City streets. The Contract Street Maintenance Program (CMP) provides maintenance work including concrete repairs, curb and gutter repairs, bridge repairs, crack repairs, and asphalt surface treatments.

Analysis: The City of Wichita is responsible for maintenance of approximately 1,780 miles of paved streets, and 95 miles of dirt streets. In addition, the City maintains 313 vehicular bridges and 29 pedestrian bridges. The Department of Public Works utilizes a computerized Pavement Managements System (PMS) to assess the street conditions throughout the City, and prioritize repairs. Staff uses this information, along with citizen input and CIP (Capital Improvement Program) planning documents, to develop the maintenance program.

As proposed, the 2010 program will provide repairs to approximately 11.51 lane miles of arterial streets, and 28.99 lane miles of collector and residential streets. In addition, the program will address numerous other concerns, including critically needed repairs to two vehicular bridges, Americans with Disability Act (ADA) mandated modification of existing facilities, bike path improvement and the provision of engineering oversight and inspection.

Financial Considerations: The proposed total expenditure for Contracted Street Maintenance Program is $6,000,000. Funds have been approved in the 2010 budget for the program.

Goal Impact: This project will support the Efficient Infrastructure goal by providing improved, safer streets throughout the City.

Legal Considerations: None

Recommendations/Actions: It is recommended that the City Council approve the 2010 Contract Street Maintenance Program.

Attachment: 2010 Contract Street Maintenance Program.

2010 Proposed Contract Maintenance Program, $6M

(Districts Funded By Needs)

February 9, 2010

PAVEMENT MAINTENANCE DEFINITIONS:

Mill and Overlay: The existing asphalt surface is removed by grinding (milling) and a new 2" asphalt wearing surface is constructed.

Ultra Thin Overlay: An overlay with ultrathin (approximate 0.75 inch) hot mix asphalt wearing surface, placed on an existing pavement surface (asphalt or concrete).

Slurry Seal: A basic surface sealing procedure in which a thin layer of fine graded aggregate, asphalt emulsion (as a binder) and mineral fillers is applied to the street.

Micro Surfacing: A high-performance surface seal in which a layer of relatively large aggregate, formulated polymer emulsion (as a binder) and mineral fillers is applied to the street.

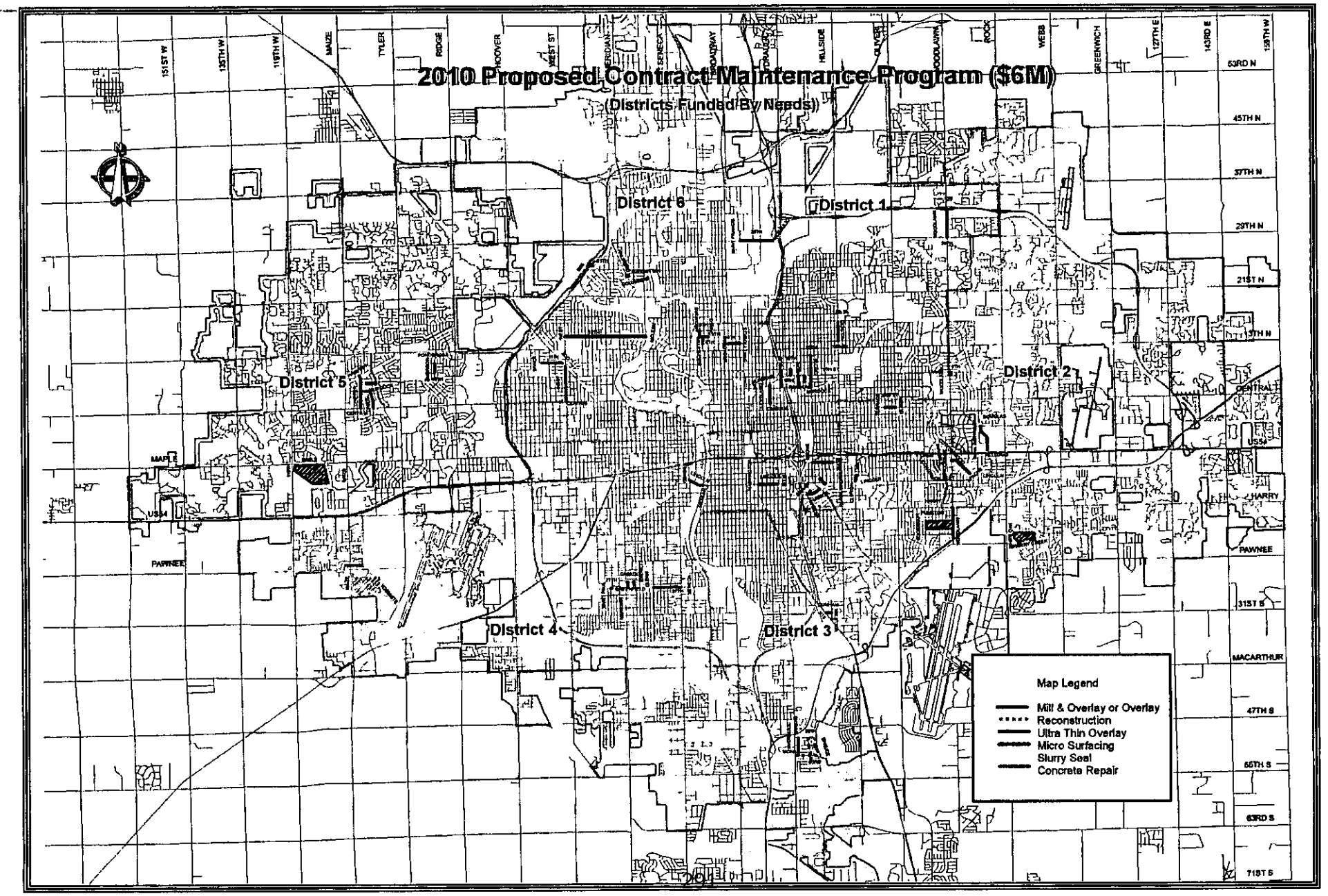
Concrete Repair: Removal and replacement of deteriorating concrete pavement.

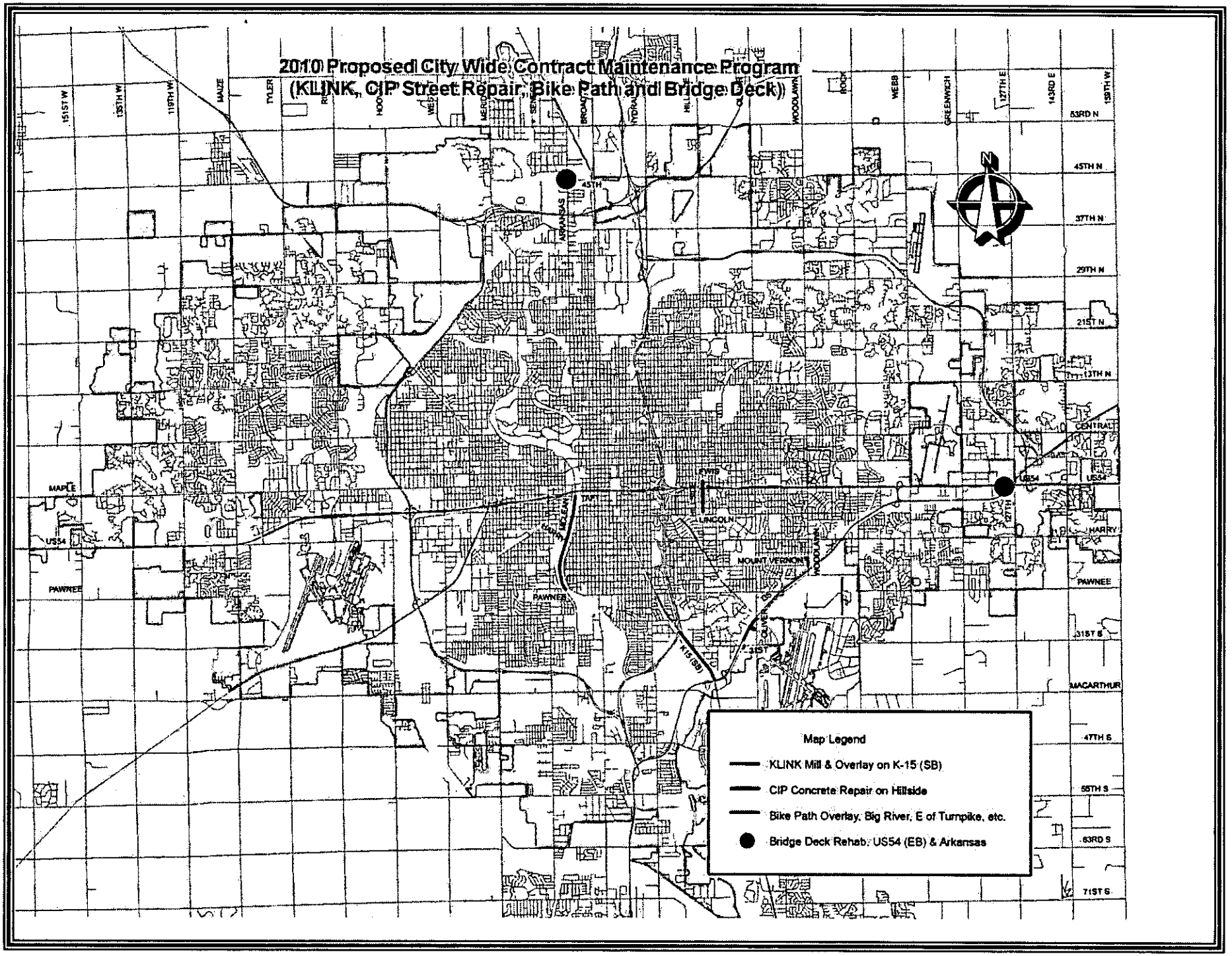
Reconstruction: Removal of old asphalt pavement, followed by subgrade stabilization, and construction of new asphalt pavement.

2010 Proposed Contract Maintenance Program Funds Allocation ($6M)

(Districts Funded by Needs)

CMP Funding	Total Available for 2010 CMP:	$6,000,000.00
City Wide Expenditure	Engineering Salaries & Overhead	$450,000.00
	Advertising, etc	$1,000.00
	Prep CG & Ultra Thin Overlay Prep, including WCR Upgrade on 31st St S for 2009	$300,000.00
	Bike Path 1" Overlay (Big River, E of Turnpike, and Woodlawn & Mt Vernon)	$100,000.00
	Bridge Deck Rehab (Kellogg EB over Turnpike, Arkansas & 44th St N)	$500,000.00
	Street Repair in Conjunction with Scheduled Engineering Project (1st St & Handley)	$15,000.00
	Contingency	$200,000.00
	Subtotal	$1,566,000.00
Funding Available for Districts	Total Available for Districts:	$4,434,000.00
Additional 2010 Funding	KLINK on K-15 (SB), Mill & Overlay	$400,000.00
	CIP Arterial Concrete Repair on Hillside, Gilbert to Lewis	$200,000.00


2010 Proposed Contract Maintenance Program ($6M)
(Districts Funded By Needs)
District 1
District 2
District 3
District 4
District 5
District 6
Map Legend
Mill & Overlay or Overlay
Reconstruction
Ultra Thin Overlay
Micro Surfacing
Slurry Seal
Concrete Repair
151ST W
135TH W
119TH W
MAIZE
TYLER
RIDGE
HOOVER
WEST ST
MERIDIAN
SENECA
BROADWAY
HILLSIDE
OLIVER
WOODLAWN
ROCK
WEBB
GREENWICH
127TH E
143RD E
159TH W
53RD N
45TH N
37TH N
29TH N
21ST N
13TH N
CENTRAL
US54
HARRY
PAWNEE
31ST S
MACARTHUR
47TH S
55TH S
63RD S
71ST S
MAPLE
US54
PAWNEE


2010 Proposed City Wide Contract Maintenance Program
(KLINK, CIP Street Repair, Bike Path and Bridge Deck)
Map Legend
KLINK Mill & Overlay on K-15 (SB)
CIP Concrete Repair on Hillside
Bike Path Overlay, Big River, E of Turnpike, etc.
Bridge Deck Rehab. US54 (EB) & Arkansas
151ST W
135TH W
119TH W
MAIZE
TYLER
WEBB
GREENWICH
127TH E
143RD E
159TH W
53RD N
45TH N
37TH N
29TH N
21ST N
13TH N
CENTRAL
US54
HARRY
PAWNEE
31ST S
MACARTHUR
47TH S
55TH S
63RD S
71ST S
MAPLE
ARKANSAS
LINCOLN
MOUNT VERNON
WOODLAWN
K15 (SB)
31ST
45TH

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT SUMMARY			
[illegible]	[illegible]	[illegible]	[illegible]
DISTRICT 1	64.41	23.0%	$1,019,820.00
DISTRICT 2	76.03	13.0%	$576,420.00
DISTRICT 3	65.64	20.0%	$886,800.00
DISTRICT 4	72.22	15.0%	$665,100.00
DISTRICT 5	79.64	11.0%	$487,740.00
DISTRICT 6	68.35	18.0%	$798,120.00
TOTAL	City-Wide 71.68	100.0%	$4,434,000.00

2010 Proposed CMP - $6M (Districts Funded By Needs)

Project	Total Square Yards	Total Cost	Arterial Lane Miles	Residential Lane Miles	Total Lane Miles
Slurry Seal	53,376	$193,792.00	0.00	6.06	6.06
Micro Surfacing	102,677	$679,611.00	0.00	13.10	13.10
Mill & Overlay	110,356	$1,917,681.00	9.86	5.33	15.19
Reconstruction	18,355	$619,498.00	0.00	2.32	2.32
Ultra Thin Overlay	11,660	$242,540.00	0.83	0.77	1.60
Concrete Repair	15,680	$780,878.00	0.82	1.41	2.23
Total	**312,104**	**$4,434,000.00**	**11.51**	**28.99**	**40.50**

CMP Program	City-Wide Expenses	Total Allocation for Districts
$6,000,000.00	**$1,566,000.00**	**$4,434,000.00**

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 1			
STREET	FROM	TO	PROJECT
Lincoln	Washington	Ellis	Concrete Joints/Panels Repairs
Orme	Chautauqua	Grove	Concrete Joints/Panels Repairs
Hillside	14th St	S of 17th St	Concrete Joints/Panels Repairs
Madison	9th St	Random	Micro Surfacing
Cleveland	Central	Murdock	Micro Surfacing
Woodlawn	29th St N	S of K-96	Mill & Overlay
Grove	S of Murdock	9th St	Mill & Overlay
Grove	9th St	12th St	Mill & Overlay
Schweiter	Bayley	Mesita	Ultra Thin Overlay
Mesita	Schweiter	GWB Dr	Ultra Thin Overlay
Minneapolis	9th St	10th St	Ultra Thin Overlay

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 2			
STREET	FROM	TO	PROJECT
9th St & Woodlawn			Concrete Intersection Replacement
Area of N of Cherry Creek & E of White Oak			Micro Surfacing
Cottonwood	Woodlawn	Apache	Micro Surfacing
Towne East Mall Dr	N of Kellogg	Douglas	Mill & Overlay

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 3			
STREET	FROM	TO	PROJECT
Brookside	Orme	Waverly	Concrete Joints/Panels Repairs
Waverly	Orme	Gilbert	Concrete Joints/Panels Repairs
Lexington	Orme	Gilbert	Concrete Joints/Panels Repairs
Dunham	K-15	Volutsia	Concrete Joints/Panels Repairs
Area of E of Edgemoor & S of Harry			Micro Surfacing
Kansas	Mona	50th St S	Mill & Overlay
Woodlawn	Harry	KTA / City Limits	Mill & Overlay
Ash	50th St S	53rd St S	Reconstruction
Mona	Spruce	Hydraulic	Reconstruction
Lincoln	Clifton	Yale	Ultra Thin Overlay

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 4			
STREET	FROM	TO	PROJECT
27th St S	Glenn	Seneca	Concrete Joints/Panels Repairs
Lincoln	McLean	Osage	Concrete Joints/Panels Repairs
27th St S	St Paul (E)	St Paul (W)	Mill & Overlay
Greenfield	Meridian	Everett	Reconstruction
Casado	Meridian	Everett	Reconstruction
Area of E of Maize & S of Pawnee			Slurry Seal

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 5			
STREET	FROM	TO	PROJECT
Area of W of Maize & S of Maple			Micro Surfacing
Chipper	Central	Harvest	Mill & Overlay
Birch	Chipper	Murdock	Mill & Overlay
Caddy	Murdock	Central	Mill & Overlay
Emerson	10th St	Ponderosa	Mill & Overlay

2010 Proposed Contract Maintenance Program

(Districts Funded by Needs)

DISTRICT 6			
STREET	FROM	TO	PROJECT
Halstead & Manhattan			Concrete Intersection Replacement
Halstead & Columbine			Concrete Intersection Replacement
Arkansas	15th St	16th St	Concrete Joints/Panels Repairs
29th St N	Hydraulic	St. Francis	Concrete Joints/Panels Repairs
14th St	Broadway	St. Francis	Micro Surfacing
15th St	McLean	West St	Micro Surfacing
West St	Central	Zoo Blvd	Mill & Overlay
11th St	Zoo	E of Baker	Mill & Overlay
15th St	Waco	Arkansas	Mill & Overlay
Rochester	14th St	15th St	Mill & Overlay
25th St Bridge Deck	Over I-235		Mill & Overlay

CONTRACT MAINTENANCE PROGRAM (CMP) LOCATION SELECTION PROCESS

Locations to be addressed in the CMP are determined using the following criteria.

1. The Pavement Condition Index (PCI)
   Every street segment in the City has been assigned a PCI number. These numbers are determined by evaluating each segment for various pavement distresses. The PCI's range from 0 to 100, with a value of 75 being the targeted goal. Streets with PCI's below 70, and especially below 50, are considered first in the CMP. We also use the PCI as a guide for preventative maintenance (PM), if funding allows. The PM helps delay streets from dropping into a lower condition range and, as a result, requiring much more expensive repairs.

2. Completion of locations previously identified.
   If repairs to streets previously scheduled were not able to be done or completed, they are usually put into the following years CMP.

3. Complaints and/or Requests
   All complaints and/or requests about existing street conditions (from the Public, City officials, supervisors, or employees doing the repairs) are responded to. These locations are continuously evaluated in comparison to other streets in the program, and included whenever necessary.

4. Maintenance History/Other Projects
   If a particular street has required continued maintenance from City staff, or routine maintenance operations are no longer effective, it is considered as a possible CMP candidate. Streets that are scheduled to be repaired in other upcoming programs, such as the Capital Improvement Program (CIP), are not included in the CMP. We also make every effort to work with utility companies to coordinate work whenever possible.

Once the CMP funding level has been established, the program is developed. Expenses not considered to benefit any single district (inspection costs, bridge work, bike paths, etc.) are deducted first. Using the criteria above, the remaining funds are applied equally to each of the City's 6 districts. Some districts will have more locations or miles addressed than others due to the condition of the existing roadways in the City and widely different repair costs necessary.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Public Exigency Project, Replacement Video Board, Lawrence-Dumont Stadium (District 1)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the public exigency expenditure.

Background: On July 8, 2009, Lawrence Dumont stadium was at the epicenter of a hail storm that struck the downtown Wichita area. The City has been working with its insurance carrier, Travelers, to assess the extent of the damage and arrive at a settlement cost to make repairs and replacements at the stadium.

A portion of the hail damage that occurred was to the centerfield Jumbo-Tron Video System. Travelers Insurance has "totaled-out" the video board portion of the system. The technology of the old board is obsolete and must be replaced with current digital video technology and controllers. The new system must be installed prior to the opening game of the season. Any delay will have an impact on the City's ability to host the professional and National Baseball Congress games this summer.

Analysis: On January 27, 2010, the City Manager exercised his authority to declare an emergency repair in accordance with Purchasing Ordinance 35-856, Section (a), Emergencies, so that repairs could quickly proceed. In accordance with the "Public Exigency" Ordinance 2.64.020, City Council is notified that to address this problem, Public Works staff has initiated a project for the emergency repairs/replacements to both the video clusters on the tower and related control electronics. Replacement of the electronics will ensure that the new video display will work properly and allow a new warranty covering the entire system to be in effect.

Financial Considerations: The preliminary estimate to repair the video board and its electronics is $378,000, funded initially by the Enhanced Building Maintenance (EBM) account. Travelers Insurance has preliminarily agreed to pay $321,372, once settled and received, these funds will be transferred back to the EBM account.

Goal Impact: These repairs address the Ensure Efficient Infrastructure goal by maintaining and optimizing public facilities and assets.

Legal Considerations: City Ordinance 2.64.020, "Public Exigency", allows the City Manager to authorize work to be performed by a contractor without formal bidding.

Recommendations/Actions: It is recommended that the City Council affirm the City Managers Public Exigency approval of the project.

Attachment: Memo.

Interoffice Memorandum

TO: Robert Layton, City Manager

FROM: Chris Carrier, Public Works Director

SUBJECT: Replacement Video Board, Lawrence-Dumont Stadium

DATE: January 27, 2010

On July 8, 2009 the Lawrence Dumont Stadium was at the epicenter of a hail storm that struck the down town Wichita area. The City has been working with our insurance carrier, Travelers, to assess the extent of the damage and arrive at a settlement cost to make repairs and replacements at the stadium. It has taken Travelers until recent weeks to firm up their damage estimates and settlement offers in order for staff to set up project and account numbers so that project kick-off's could begin.

A portion of the hail damage that occurred was to the centerfield Jumbo-Tron Video System and Travelers insurance has "totaled-out" the video board portion of the system and it must be replaced prior to the opening season. The technology of the old board is obsolete and now must be replaced with current digital video technology and controllers.

To address this problem, it is recommended that both the video clusters on the tower and related control electronics be replaced as soon as possible. Replacement of the electronics will ensure that the new video display will work properly. In addition, replacement of both the video board and the related electronics would allow a new warranty covering the entire system to be in effect. A preliminary estimate of the total cost to repair the video board and its electronics is $378,000.00. Travelers Insurance has preliminarily agreed to pay $321,372.00 with the balance of $56,628.00 coming from the Enhanced Building Maintenance (EBM) fund until Risk Management can settle the "Actual Cash Vale" with Travelers. Once settled, these funds will be transformed back to EBM.

Due to the baseball season quickly approaching, any delay in completing the repairs to the video system will have a significantly adverse impact on our ability to play both the professionals and National Baseball Congress games this summer. I request that you declare this repair an emergency repair in accordance with Purchasing Ordinance 35-856, Section (a), Emergencies, so that repairs may proceed with all possible haste. We will draft an Agenda Item to notify Council of the emergency and expenditure for their consideration and approval.

Approved:

_____

Robert Layton, City Manager

City of Wichita
City Council Meeting
February 23, 2009

TO: Mayor and City Council

SUBJECT: Intelligent Transportation Systems – Traffic Synchronization (All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the payment.

Background: On June 16, 2009, the City Council approved the Energy Efficiency and Conservation Block Grant application, part of the American Recovery and Reinvestment Act (ARRA), through the United States Department of Energy. One of the projects awarded was a $560,000 grant to improve traffic synchronization.

As part of the traffic synchronization process, traffic data must be acquired, including turn count movements and vehicle volumes. Traffic Maintenance has replaced ten of its antiquated mechanical counters with modern MetroCount counters and software and seeks to replace the remaining forty mechanical counters.

Analysis: Accurate traffic data is critical to traffic signal optimization and synchronization. The City of Wichita currently owns MetroCount traffic counters to collect the counts and MetroCount Traffic Executive software is utilized to analyze the data collected from the traffic counters. MetroCount is a sole-source provider of these counters, and will allow the City standardization of this equipment and enable the software to analyze the data from these counters. These counters acquire vehicle counts, vehicle speeds, and vehicle classifications. This data will be directly used in computer modeling to determine traffic signal timings.

Financial Considerations: The cost to purchase forty additional MetroCount counters, hoses, and battery packs is $32,575. The costs will be funded entirely by the Department of Energy block grant, which the City Council approved on June 16, 2009.

Goal Impact: This project addresses the Efficient Infrastructure goal by upgrading the City's traffic signal system

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council authorize the payment in the amount of $32,575.

Attachments: None.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Consent to Sale of Project, Broadmoor at Chelsea Acquisition, L.P. (District I)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Approve the Consent of Issuer, Base Lease Termination Agreement, Sublease Termination Agreement and Escrow Deposit Agreement.

Background: On June 19, 1997, the City of Wichita issued its Multi-Family Housing Revenue Bonds Series V-A, 1997 in the amount of $5.2 million and its Series V-B, 1997 in the amount of $800,000 to finance the acquisition and rehabilitation of the Broadmoor at Chelsea Apartments, a multi-family housing project for low and moderate income families, located at 7677 East 21st Street North. Broadmoor at Chelsea Acquisition, L.P. holds title to the property, which it leased to the City, and the bonds were secured through a sublease from the City back to Broadmoor at Chelsea Acquisition, L.P. The Broadmoor Apartments are now being sold to Chelsea Partners, LLC, a single-asset real estate holding company and will be managed by DuPont Management, Inc., a local property management company. The City has been requested to provide consent to the sale as conditioned by the bond terms.

Analysis: Chelsea Partners, LLC is owned by local investors Jeff Amend and Brent Dupont. Through various entities, they own and manage a number of apartment units, individual residential units and shopping centers in the Wichita area. They plan to close on the property on February 26, 2010, with a deposit of funds for bond payment into an escrow, which will be used to retire the bonds by April 1, 2010, under FNMA procedures.

Under the 1997 Land Use Restriction Agreement ("Regulatory Agreement") between the City and Broadmoor at Chelsea Acquisition, L.P., it is necessary for the City to consent to the sale or transfer of the project to another party. Sale proceeds will be used to pay off the mortgage held by Fannie Mae and Fannie Mae will then transfer funds to the Trustee to payoff bondholders. The attached Consent of Issuer will not be executed and delivered until the conditions below are met:

1) Proof to the City and the Trustee that Chelsea Partners, LLC, has assumed the duties and obligations under the Regulatory Agreement and the Mortgage Loan and related documents;
2) an opinion of the purchaser's counsel that the obligations under the Regulatory Agreement and the Mortgage Loan and related documents (if applicable) have been assumed; and
3) an opinion of the City's Bond Counsel that the sale will not adversely affect the bondholders from a tax standpoint.

Financial Considerations: There is no cost to the City resulting from its consent to the sale of Broadmoor at Chelsea Apartments. Chelsea Partners, LLC will pay the City the $1,000 purchase price for the project before bonds are retired.

Goal Impact: Economic Vitality and Affordable Living. Support of multi-family facilities available to low and middle incomes assure the availability of affordable housing.

Legal Considerations: The Law Department has approved the attached Consent of Issuer, Base Lease Termination Agreement, Sublease Termination Agreement and Escrow Deposit Agreement as to form. Minor changes may be needed to the document forms prior to closing and additional documents may need to be executed by the City in order to complete the transfer of ownership of the property. Any further documents required will be approved as to form before execution. The 1997 bond documents include a Land Use Restriction Agreement, which sets household income requirements for the tenants of the apartment complex and must remain in effect under federal regulation, regardless of a change in ownership.

The City's bond counsel, Kutak Rock, will provide an opinion that the sale of the project will not adversely impact the tax-exempt status of the 1997 bonds.

Recommendations/Actions: It is recommended that the City Council approve the Consent of Issuer, Base Lease Termination Agreement, Sublease Termination Agreement and Escrow Deposit Agreement in substantially the forms presented today, subject to stated conditions, and authorize necessary signatures and the execution and delivery of such further documents as may be required to release the property, subject to approval of such documents by the Law Department.

Attachments: Consent of Issuer, Base Lease Termination Agreement, Sublease Termination Agreement and Escrow Deposit Agreement

CONSENT OF ISSUER

Re: $5,200,000 Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Projects), Series No. V-A, 1997

The City of Wichita, Kansas (the "Issuer"), as Issuer of the referenced bonds pursuant to the Indenture of Trust, dated as of June 1, 1997 (the "Indenture"), between the Issuer and the Security Bank of Kansas City, as trustee (the "Trustee"), and as party to the Land Use Restriction Agreement, dated as of June 1, 1997 (the "Regulatory Agreement"), among Broadmoor at Chelsea Acquisition, L.P. ("Partnership"), the Issuer and the Trustee, (a) hereby acknowledges receipt of the following in accordance with Section 10 of the Regulatory Agreement:

(i) reasonable evidence satisfactory to the Issuer and the Trustee that (A) Chelsea Partners, LLC, the purchaser or transferee of the Project (the "Purchaser"), has assumed, in writing and in full, the Partnership's duties and obligations under the Regulatory Agreement accruing or arising after the date of the transfer (the "Assignment") and (B) the Mortgage Loan and related documents have been satisfied, terminated and released, as applicable;

(ii) an opinion of counsel to the Purchaser that the Purchaser has duly assumed the obligations of the Partnership under the Regulatory Agreement and that such obligations and the Regulatory Agreement are binding on the Purchaser; and

(iii) an opinion of Bond Counsel that such sale, transfer or other disposition will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes or the exemption of interest on the Bonds from income taxes of the State of Kansas, and

(b) hereby consents to the sale and transfer of the Project to the Purchaser and the Assignment pursuant to Section 10 of the Regulatory Agreement. Capitalized terms used herein but not defined have the meaning therefore set forth in the Regulatory Agreement.

This ___ day of February, 2010.

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

[SEAL]

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, City Attorney and
Director of Law

ESCROW DEPOSIT AGREEMENT

This ESCROW DEPOSIT AGREEMENT, dated February 26, 2010 (the "Agreement"), by and among the CITY OF WICHITA, KANSAS, a municipal corporation of the State of Kansas (the "Issuer"), BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership (the "Partnership"), and SECURITY BANK OF KANSAS CITY, in its capacity as escrow agent (the "Escrow Agent") and as trustee (the "Trustee") respecting the Issuer's Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Project), Series No. V-A, 1997 in the original principal amount of $5,200,000 (the "Bonds"), issued pursuant to an Indenture of Trust, dated as of June 1, 1997 (the "Indenture"), between the Issuer and the Trustee (capitalized terms used herein, but not defined, have the meanings set forth in the Indenture):

W I T N E S S E T H:

WHEREAS, the Issuer issued its Bonds, the proceeds of which were applied to finance the acquisition and rehabilitation of a 240-unit commercial multifamily residential project in the City of Wichita, Kansas known as Broadmoor at Chelsea Apartments, including, without limitation, the real estate and improvements located thereon and the personal property thereon (except for any personal property owned by any tenant of a residential unit or the resident property manager) and all appurtenant rights and easements related thereto (collectively, the "Project") for the Partnership; and

WHEREAS, in order to provide funds to refinance the Project and refund certain prior bonds of the Issuer, the Issuer determined to make amounts available solely from the proceeds of the Bonds to enable the Trustee to fund a loan made by Prudential Multifamily Mortgage Inc., as successor to Washington Mortgage Financial Group, Ltd. (the "Lender"), to the Partnership in the principal amount of $5,200,000 (the "Mortgage Loan"), evidenced by a promissory note (the "Mortgage Note") in such amount from the Partnership and secured by a Multifamily Mortgage, Assignment of Rents and Security Agreement (the "Mortgage") with respect to the Project, in consideration of the assignment of the Mortgage Note and other Mortgage Loan documents to the Federal National Mortgage Association ("Fannie Mae") in exchange for the delivery to the Trustee, subject to the satisfaction of certain conditions, by Fannie Mae of the Pass-Through Certificate; and

WHEREAS, the Partnership has delivered notice to the Lender, the Trustee and Fannie Mae pursuant to the Mortgage Note that it intends to exercise its option to prepay the Mortgage Loan, and cause the Bonds, which are currently outstanding in the aggregate principal amount of [$4,180,000], to be defeased pursuant to Article VIII of the Indenture; and

WHEREAS, Fannie Mae has delivered notice to the Trustee that it intends to cause its obligations under the Pass-Through Certificate to be prepaid by the Partnership, which has been directed by Fannie Mae to prepay its obligations under the Mortgage Note directly to the Trustee, and having received such notice the Trustee has delivered notice of the redemption of the Bonds on April 1, 2010 to the Bondholders in accordance with Section 4.03 of the Indenture; and

WHEREAS, the Trustee has agreed to such direct payment by Partnership of Fannie Mae's obligations pursuant to that certain Dissolution Agreement, dated as of Februay 26, 2010, between Fannie Mae and the Trustee; and

WHEREAS, the Partnership has determined, with the consent of the Issuer and the Trustee, to sell the Project and simultaneously to use certain Funds and Account under the Indenture respecting the Bonds (the "Funds") and a portion of the proceeds of such sale to establish a cash balance, which cash is to be held, supervised, maintained and administered by the Escrow Agent under the terms and conditions of this Agreement, and to pay certain expenses; and

WHEREAS, it is now necessary and desirable for the Issuer and the Trustee to enter into this Agreement with the Escrow Agent to provide for the use and application of the moneys so deposited with the Escrow Agent and the use and application of the principal of and the interest on any hereinafter defined Acquired Obligations to be acquired;

NOW, THEREFORE, in consideration of the premises and the undertakings hereinafter set forth, it is agreed by and among Issuer, the Authority and the Escrow Agent, each acting by and through their duly authorized officers:

1. The Escrow Agent acknowledges receipt (a) from the proceeds of the sale of the Project, the sum of $_____, and (b) from the Funds, the sum of $_____ (collectively, the "Defeasance Amount"), which shall be applied as set forth herein.

2. The Bonds shall be refunded and defeased through payment as provided in this Agreement. There is hereby created a special separate and irrevocable trust fund to be designated "Broadmoor at Chelsea Escrow Deposit Fund" (the "Escrow Deposit Fund"). The Partnership, with the consent of the Issuer, hereby instructs the Escrow Agent, and Escrow Agent hereby agrees to (a) purchase with $_____ of the sum deposited with it pursuant to Section 1 hereof the noncallable, nonprepayable investments listed in clause (a) under the definition of Investment Obligations (as defined in the Indenture) that are described in Exhibit A attached hereto (the "Acquired Obligations") and (b) hold the remaining $_____ of the sum deposited with it pursuant to Section 1 hereof as a cash deposit for the payment of the Bonds.

3. The Issuer and the Escrow Agent further acknowledge and agree that based on the verification report prepared by Grant Thornton LLP, dated February 26, 2010 (the "Verification Report"), the Defeasance Amount is sufficient without investment to redeem the Bonds maturing on and after April 1, 2010 on such date at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date (the "Defeasance Requirements," as set forth in Exhibit B attached hereto and by this reference incorporated herein).

4. The Escrow Agent acknowledges the establishment with it of the Escrow Deposit Fund, acknowledges that the Acquired Obligations and the Defeasance Amount have been deposited in the Escrow Deposit Fund and agrees that any interest earned thereon shall be held for the credit of the Escrow Deposit Fund.

5. The deposit of the Defeasance Amount and the Acquired Obligations in the Escrow Deposit Fund constitutes an irrevocable deposit thereof in trust solely for the purpose of making the payments described in Exhibit B hereof.

6. The Escrow Agent agrees to apply the cash monies and the proceeds of the Acquired Obligations deposited in the Escrow Deposit Fund and the interest earned on the Acquired Obligations in accordance with the provisions hereof.

7. The Issuer and the Partnership hereby irrevocably authorize and direct the Escrow Agent to transfer to the Trustee on or prior to the payment dates specified in Exhibit B the amounts specified for the Bonds together with instructions that such amounts be applied to the payment of the principal of, redemption premium and interest on the Bonds.

8. The Trustee acknowledges and agrees that (i) the conditions set forth in Article VIII of the Indenture have been satisfied and (ii) the lien of the Indenture and the rights granted thereby, including the lien created thereby on the Project, have ceased and determined and are discharged; provided, pursuant to Article VIII of the Indenture, that it will continue to comply with the applicable and necessary provisions of the Indenture that pertain to the payment, registration, transfer and exchange of the Bonds. Such provisions and the applicable and necessary provisions of the Indenture pertaining to the replacement of lost, destroyed or mutilated bonds are specifically incorporated herein by this reference thereto, and the Trustee shall continue to abide by such provisions until the payment of the Bonds. As soon as possible following the execution and delivery of this Agreement, the Trustee shall mail by first-class mail, postage prepaid, to all registered owners of the Bonds, a notice substantially in the form attached hereto as Schedule 1. The Trustee represents and warrants that all principal and interest that became due and payable on the Bonds prior to the execution and delivery of this Agreement have been paid by the Trustee or the Trustee is holding money sufficient to make such payments.

9. The Escrow Agent acknowledges and accepts the foregoing direction and authorization. The liability of the Escrow Agent for the payment of the principal of, redemption premium and interest on the Bonds pursuant to this Agreement shall be limited to the Defeasance Amount and the application of the proceeds of the Acquired Obligations available for such purposes in the Escrow Deposit Fund.

10. The Escrow Agent shall maintain full and complete records of all assets and funds held by the Escrow Agent from time to time under this Agreement and of all receipts and disbursements hereunder and shall furnish the Issuer and the Partnership reports thereof upon request, subject to such reasonable regulations or restrictions as the Escrow Agent may from time to time impose.

11. Immediately after April 1, 2010, any monies and securities remaining in the Escrow Deposit Fund, if any, after payment of all amounts payable therefrom as described in Paragraph 3 of this Agreement or retention by the Escrow Agent of amounts sufficient to make such payments not theretofore made, shall be paid over to the Partnership, and this Agreement and the rights hereby granted shall thereupon cease, determine and be void, but such termination of this Agreement shall not affect the obligation of the Trustee with respect to payments of the amounts payable to the holders of the Bonds, whether or not such Bonds and coupons appertaining thereto may have been presented for payment on the date of termination of this Agreement.

12. The creation and establishment of the Escrow Deposit Fund for the purposes herein specified shall be irrevocable. The holders and owners of the Bonds shall have an express lien on the Defeasance Amount, the Acquired Obligations and all cash monies in the Escrow Deposit Fund from time to time until paid out, used and applied in accordance with this Agreement.

13. The Escrow Agent acknowledges that it will, by virtue of its services hereunder, have no lien or right of set-off on the Acquired Obligations or any other moneys in the Escrow Deposit Fund for payment of its fees and expenses for acting as Escrow Agent hereunder, for acting as Trustee and bond registrar with respect to the Bonds, or for mailing the notices as specified above. The Escrow Agent agrees that it will bill the Partnership for its services and expenses at its standard rates on an annual basis and shall have no rights against the Escrow Deposit Fund therefor.

14. This Agreement is made for the benefit of the Issuer, the Partnership and the holders from time to time of the Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders and the written consent of the Issuer and the Escrow Agent; provided, that the Issuer, the Partnership and the Escrow Agent may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, in order to (a) cure any ambiguity or formal defect or omission in this Agreement; (b) grant to or confer upon the Escrow Agent for the benefit of such holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon such holders or the Escrow Agent; (c) subject to this Agreement additional funds, securities or properties; or (d) make such changes as may be required, in the opinion of counsel of recognized experience with respect to federal income tax aspects of municipal securities, to preserve the exemption from federal income taxation of interest on the Bonds or any other obligations of the Issuer hereafter issued; provided, such change does not adversely affect the amounts of funds which would otherwise be available hereunder for payment of principal and interest requirements of and redemption premium with respect to the Bonds when due.

15. If any one or more of the covenants or agreements provided in this Agreement on the part of the parties hereto to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and

shall in no way affect the validity of the remaining provisions hereof, and the remaining portions of this Agreement shall in any event be construed to accomplish the purpose of this Agreement of providing for the payment in full of the principal of and interest on the Bonds and the redemption premium with respect thereto as provided herein.

16. This Agreement may be executed in several counterparts, all of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized officer or officers and their corporate seals to be hereunto affixed and attested as of the date first above written.

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

[SEAL]

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, City Attorney and
Director of Law

SECURITY BANK OF KANSAS CITY, as Escrow Agent and Trustee

By:_____

Title:_____

BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership

By: NATIONAL CORPORATE TAX CREDIT INC. VII, a California corporation, its operating general partner

By:_____
Michael J. Hornbrook
Senior Vice President

EXHIBIT “A”
TO
ESCROW DEPOSIT AGREEMENT

ACQUIRED OBLIGATIONS

Treasury Bills [insert additional description upon purchase at closing]

EXHIBIT “B”
TO
ESCROW DEPOSIT AGREEMENT

DEFEASANCE REQUIREMENTS

SCHEDULE "1"

MATERIAL EVENTS NOTICE

PROVISION FOR PAYMENT

CITY OF WICHITA, KANSAS MULTIFAMILY HOUSING REVENUE BONDS
(BROADMOOR AT CHELSEA APARTMENTS PROJECT), SERIES NO. V-A, 1997

The holders and owners of the outstanding bonds referenced above and described more fully below (the "Bonds"), issued by the City of Wichita, Kansas (the "Issuer") are hereby notified that the Security Bank of Kansas City, as escrow agent (the "Escrow Agent"), has received and has on irrevocable deposit under an Escrow Deposit Agreement, dated February 26, 2010, by and among the Issuer, the Partnership (defined therein), the Escrow Agent and Security Bank of Kansas City, as Trustee for the Bonds (the "Trustee"), cash moneys or noncallable, nonprepayable investments listed in clause (a) under the definition of Investment Obligations (defined in the Indenture pursuant to which the Bonds were issued), the principal of and interest on which obligations, when due, will provide moneys sufficient to redeem the Bonds maturing on or after April 1, 2010 on such date at a redemption price equal to 100% of the principal amount thereof plus accrued interest. The Escrow Agent shall collect the principal of and interest on such obligations and shall transfer the same to the Trustee for application to the payment of the principal of, redemption premium and interest on the Bonds.

Maturity Date	CUSIP	Bond Number	Amount
July 1, 2010			$675,000
July 1, 2016			$1,400,000
July 1, 2022			$2,105,000

All of the Bonds are now deemed to have been paid, and the holders and owners of the Bonds shall hereafter be limited to the application of such cash moneys or such Investment Obligations for payment of the principal of, redemption premium and interest on the Bonds.

This notice is for information purposes only and does not require any action at this time. Holders will be notified prior to the redemption date.

Dated February 26, 2010

Alston & Bird
Draft 2/3/10

UPON RECORDING RETURN TO:
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Jeffrey M H Adams

Cross Reference: Base Lease Agreement dated as of June 1, 1997 recorded in Film 1701, page 1214 as Document Number 1611768, Sedgwick County, Kansas Records

BASE LEASE TERMINATION AGREEMENT

THIS BASE LEASE TERMINATION AGREEMENT (this "Agreement") is made and entered into as of this 26th day of February, 2010, by and between BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership, as landlord (the "Partnership"), and CITY OF WICHITA, KANSAS, a municipal corporation of the State of Kansas, as tenant (the "Issuer").

W I T N E S S E T H:

WHEREAS, the Issuer issued its Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Project), Series No. V-A, 1997 in the principal amount of $5,200,000 (the "Series A Bonds"), pursuant to an Indenture of Trust, dated as of June 1, 1997 (the "Series A Indenture"), between the Issuer and Security Bank of Kansas City, as trustee (the "Series A Trustee"), and its Subordinated Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Project), Series No. V-B, 1997 in the principal amount of $800,000 (the "Series B Bonds", together with the Series A Bonds, the "Bonds") pursuant to a Subordinate Trust Indenture, dated as of June 1, 1997 (the "Series B Indenture"), between the Issuer and Security Bank of Kansas City, as trustee (the "Series B Trustee", together with the Series A Trustee, the "Trustee"), the proceeds of which were applied to finance the acquisition and rehabilitation of a 240-unit commercial multifamily residential project in the City of Wichita, Kansas known as Broadmoor at Chelsea Apartments, including, without limitation, the real estate and improvements located thereon and the personal property thereon (except for any personal property owned by any tenant of a residential unit or the resident property manager) and all appurtenant rights and easements related thereto (collectively, the "Project") for the Partnership; and

WHEREAS, in order to provide funds to finance the Project, the Issuer determined to (i) make amounts available solely from the proceeds of the Series A Bonds to enable the Series A Trustee to fund a loan made by Prudential Multifamily Mortgage Inc., as successor to Washington Mortgage Financial Group, Ltd. (the "Lender"), to the Partnership in the principal amount of $5,200,000 (the "Mortgage Loan”), evidenced by a

promissory note (the "Mortgage Note") in such amount from the Partnership and secured by a Multifamily Mortgage, Assignment of Rents and Security Agreement (the "Mortgage") with respect to the Project, in consideration of the assignment of the Mortgage Note and other Mortgage Loan documents to the Federal National Mortgage Association ("Fannie Mae") in exchange for the delivery to the Trustee, subject to the satisfaction of certain conditions, by Fannie Mae of the Pass-Through Certificate and (ii) make amounts available from the proceeds of the Series B Bonds to enable the Series B Trustee to fund a loan to the Partnership in the principal amount of $800,000, evidenced by a promissory note secured solely by certain Cash Surplus Revenues (as defined in the Series B Indenture); and

WHEREAS, in order to satisfy the requirements of the Act, the Issuer purchased a leasehold interest in the Project pursuant to that certain Base Lease Agreement between the Partnership and the Issuer dated as of June 1, 1997, recorded in Film 1701, page 1214 as Document Number 1611768 (the "Lease"), and Issuer, in turn, subleased the Project back to the Partnership pursuant to that certain Sublease Agreement dated as of June 1, 1997, recorded in Film 1701, Page 1229 as Document Number 1611769 (the "Sublease"); and

WHEREAS, in connection with the closing of the sale of the Project by the Partnership to Chelsea Partners, LLC, the Partnership has notified the Issuer that the Mortgage Loan has been repaid, the Series B Bonds have been canceled and the Series A Bonds have been defeased in accordance with the terms of the Series A Indenture, and, therefore, the Lease and Sublease have terminated in accordance with their terms; and

WHEREAS, the Partnership and the Issuer desire to document the termination of the Lease in accordance with Section 8.1 of the Lease.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid by each party hereto to the other, the receipt and sufficiency of which are hereby acknowledged, the Partnership and the Issuer hereby agree as follows:

1. In connection with the sale of the Project, the Issuer acknowledges that on February 26, 2010 (i) Mortgage Loan was paid off and the Series B Bonds were canceled, (ii) Fannie Mae caused its obligations under the Pass-Through Certificate to be prepaid, and (iii) the Series A Bonds were defeased (the "Termination Date"). Accordingly, the Partnership and the Issuer agree that the Lease automatically terminated on the Termination Date and, effective as of the Termination Date, the Partnership and the Issuer are each released as to the other, from all liability and obligations thereafter arising under the Lease; provided, however, that the Partnership shall remain liable for its surviving indemnification obligations in accordance with and subject to Section 5.2(c) of the Lease, which obligations shall terminate on the date that is two (2) years after the date of this Agreement.

2. The Issuer hereby expressly acknowledges and agrees that as of the Termination Date the Issuer has no further right or interest in the Project and the Lease.

3. The Issuer acknowledges receipt from the Partnership of the sum of One Thousand and No/100 Dollars ($1,000.00), and accepts such payment as full and final performance and satisfaction of any and all obligations of the Partnership arising under Section 8.1 of the Lease.

4. This Agreement shall be construed and interpreted under the laws of the State of Kansas, without regard to its conflicts laws or choice of law rules. The parties agree that this Agreement is the result of negotiation by the parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the party drafting the same. The parties further agree that termination of the Lease prior to the original expiration date of the Lease Term is in the best interest of each of the parties, and that neither party shall be entitled to any compensation or consideration for such early termination other than as may be expressly set forth hereinabove.

5. This Agreement contains the entire agreement of the parties hereto with respect to the termination of the Lease, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein or incorporated herein by reference shall be of any force or effect.

6. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.

7. If any term or provision of this Agreement or the application thereof to any particular circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or such provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

8. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

IN WITNESS WHEREOF, the Partnership and the Issuer have caused this Agreement to be executed under seal as of the date first above written.

PARTNERSHIP:

BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership

By: NATIONAL CORPORATE TAX CREDIT INC. VII, a California corporation, its operating general partner

By:_____
Michael J. Hornbrook
Senior Vice President

ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY, that on this _____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of _____ aforesaid, personally appeared Michael Hornbrook, the Senior Vice President of National Corporate Tax Credit, Inc. VII, which is the operating general partner of **BROADMOOR AT CHELSEA ACQUISITION, L.P.,** a Missouri limited partnership, and acknowledged the foregoing Agreement to be its corporate act, and as such officer and agent as aforesaid.

WITNESS my hand and notarial seal the day and year last above written.

_____
Notary Public
Print Name:_____

My Commission Expires:

ISSUER:

CITY OF WICHITA, KANSAS, a municipal corporation of the State of Kansas

By:_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

[Seal]

ACKNOWLEDGEMENT

STATE OF KANSAS)
)
COUNTY OF SEDGWICK)

I HEREBY CERTIFY, that on this _____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of Kansas aforesaid, personally appeared Carl Brewer, the Mayor of the City of Wichita, Kansas, a municipal corporation of the State of Kansas, and Karen Sublett, the City Clerk of such city, and each acknowledged their execution and attestation, respectively, as such officer and agent as aforesaid, on behalf of the City of Wichita and as the act of such city.

WITNESS my hand and notarial seal the day and year last above written.

_____
Notary Public
Print Name:_____

My Commission Expires:

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, City Attorney and
Director of Law

Alston & Bird
Draft 2/3/10

UPON RECORDING RETURN TO:
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Attention: Jeffrey M. H. Adams

Cross Reference: Sublease Agreement dated as of June 1, 1997 recorded in Film 1701, page 1229 as Document Number 1611769, Sedgwick County, Kansas Records

SUBLEASE TERMINATION AGREEMENT

THIS SUBLEASE TERMINATION AGREEMENT (this "Agreement") is made and entered into as of this 26th day of February, 2010, by and between CITY OF WICHITA, KANSAS, a municipal corporation of the State of Kansas, as Sublessor (the "Issuer"), and BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership, as Sublessee (the "Partnership").

W I T N E S S E T H:

WHEREAS, the Issuer issued its Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Project), Series No. V-A, 1997 in the principal amount of $5,200,000 (the "Series A Bonds"), pursuant to an Indenture of Trust, dated as of June 1, 1997 (the "Series A Indenture"), between the Issuer and Security Bank of Kansas City, as trustee (the "Series A Trustee") and its Subordinated Multifamily Housing Revenue Bonds (Broadmoor at Chelsea Apartments Project), Series No. V-B, 1997 in the principal amount of $800,000 (the "Series B Bonds", together with the Series A Bonds, the "Bonds") pursuant to a Subordinate Trust Indenture, dated as of June 1, 1997 (the "Series B Indenture"), between the Issuer and Security Bank of Kansas City, as trustee (the "Series B Trustee", together with the Series A Trustee, the "Trustee"), the proceeds of which were applied to finance the acquisition and rehabilitation of a 240-unit commercial multifamily residential project in the City of Wichita, Kansas known as Broadmoor at Chelsea Apartments, including, without limitation, the real estate and improvements located thereon and the personal property thereon (except for any personal property owned by any tenant of a residential unit or the resident property manager) and all appurtenant rights and easements related thereto (collectively, the "Project") for the Partnership; and

WHEREAS, in order to provide funds to finance the Project, the Issuer determined to (i) make amounts available solely from the proceeds of the Series A Bonds to enable the Series A Trustee to fund a loan made by Prudential Multifamily Mortgage Inc., as successor to Washington Mortgage Financial Group, Ltd. (the "Lender") to the Partnership in the principal amount of $5,200,000 (the "Mortgage Loan"), evidenced by a promissory note (the "Mortgage Note") in such amount from the Partnership and secured by a Multifamily Mortgage, Assignment of Rents and Security Agreement (the

"Mortgage") with respect to the Project, in consideration of the assignment of the Mortgage Note and other Mortgage Loan documents to the Federal National Mortgage Association ("Fannie Mae") in exchange for the delivery to the Trustee, subject to the satisfaction of certain conditions, by Fannie Mae of the Pass-Through Certificate and (ii) make amounts available from the proceeds of the Series B Bonds to enable the Series B Trustee to fund a loan to the Partnership in the principal amount of $800,000, evidenced by a promissory note secured solely by certain Cash Surplus Revenues (as defined in the Series B Indenture); and

WHEREAS, in order to satisfy the requirements of the Act, the Issuer purchased a leasehold interest in the Project pursuant to that certain Base Lease Agreement between the Partnership and the Issuer dated as of June 1, 1997 recorded in Film 1701, page 1214 as Document Number 1611768 (the "Lease"), and Issuer, in turn, subleased the Project back to the Partnership pursuant to that certain Sublease Agreement dated as of June 1, 1997, recorded in Film 1701, Page 1229 as Document Number 1611769 (the "Sublease"); and

WHEREAS, in connection with the sale of the Project by the Partnership to Chelsea Partners, LLC, the Partnership has notified the Issuer that the Mortgage Loan has been repaid, the Series B Bonds have been canceled and the Series A Bonds have been defeased in accordance with the terms of the Series A Indenture, and, therefore, the Lease and Sublease have terminated by their terms; and

WHEREAS, the Partnership and the Issuer desire to document the termination of the Sublease in accordance with Section 6.3 of the Sublease.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid by each party hereto to the other, the receipt and sufficiency of which are hereby acknowledged, the Partnership and the Issuer hereby agree as follows:

1. In connection with the sale of the Project, the Issuer acknowledges that on February 26, 2010 (i) the Mortgage Loan was paid off and the Series B Bonds were canceled, (ii) Fannie Mae caused its obligations under the Pass-Through Certificate to be prepaid, and (iii) the Series A Bonds were defeased (the "Termination Date"). Accordingly, the Partnership and the Issuer agree that the Sublease automatically terminated on the Termination Date and, effective as of the Termination Date, the Partnership and the Issuer are each released, as to the other, from all liability and obligations thereafter arising under the Sublease; provided, however, that the Partnership shall remain liable for its surviving indemnification obligations in accordance with and subject to the terms of Section 6.2(c) and 6.4(f) of the Sublease (which obligations, under Section 6.2(c) only, shall terminate on the date that is two (2) years after the date of this Agreement).

2. The Issuer hereby acknowledges payment in full by the Partnership of all Subrentals due from the Partnership under Sections 4.2 and 4.3 and Article VIII of the

Sublease. The Issuer hereby expressly acknowledges and agrees that as of the Termination Date the Issuer has no further right or interest in the Project and the Sublease.

3. The Issuer acknowledges receipt from the Partnership of the sum of One Thousand and No/100 Dollars ($1,000.00), and accepts such payment as full and final performance and satisfaction of any and all obligations of the Partnership arising under Section 6.3 and Article VIII of the Sublease.

4. This Agreement shall be construed and interpreted under the laws of the State of Kansas, without regard to its conflicts laws or choice of law rules. The parties agree that this Agreement is the result of negotiation by the parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the party drafting the same. The parties further agree that termination of the Sublease prior to the original expiration date of the Sublease Term is in the best interest of each of the parties, and that neither party shall be entitled to any compensation or consideration for such early termination other than as may be expressly set forth hereinabove.

5. This Agreement contains the entire agreement of the parties hereto with respect to the termination of the Sublease, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein or incorporated herein by reference shall be of any force or effect.

6. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.

7. If any term or provision of this Agreement or the application thereof to any particular circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or such provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

8. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Sublease.

IN WITNESS WHEREOF, the Partnership and the Issuer have caused this Agreement to be executed under seal as of the date first above written.

PARTNERSHIP:

BROADMOOR AT CHELSEA ACQUISITION, L.P., a Missouri limited partnership

By: NATIONAL CORPORATE TAX CREDIT INC. VII, a California corporation, its operating general partner

By:_____
Michael J. Hornbrook
Senior Vice President

ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY, that on this _____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of _____ aforesaid, personally appeared Michael Hornbrook, the Senior Vice President of National Corporate Tax Credit, Inc. VII, which is the operating general partner of **BROADMOOR AT CHELSEA ACQUISITION, L.P.,** a Missouri limited partnership, and acknowledged the foregoing Agreement to be its corporate act, and as such officer and agent as aforesaid.

WITNESS my hand and notarial seal the day and year last above written.

_____
Notary Public
Print Name:_____

My Commission Expires:

ISSUER:

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

[Seal]

ACKNOWLEDGEMENT

STATE OF KANSAS)
)
COUNTY OF SEDGWICK)

I HEREBY CERTIFY, that on this _____ day of _____, 2010, before me, the subscriber, a Notary Public of the State of Kansas aforesaid, personally appeared Carl Brewer, the Mayor of the City of Wichita, Kansas, a municipal corporation of the State of Kansas, and Karen Sublett, the City Clerk of such city, and each acknowledged their execution and attestation, respectively, as such officer and agent as aforesaid, on behalf of the City of Wichita and as the act of such city.

WITNESS my hand and notarial seal the day and year last above written.

_____
Notary Public
Print Name:_____

My Commission Expires:

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, City Attorney and
Director of Law

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Easement Across City-owned Property at 243 North Mead (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Grant the easement.

Background: On October 20, 2009, the City Council authorized the sale of the City-owned property at 238 North Mead to Marketplace Properties. As a condition of the sale, the property was to be leased to Airbus to house their planned expansion. Airbus currently occupies space in the building at 225 North Moore, west of 238 North Mead. There is a City-owned public parking lot located between the two facilities.

Analysis: To properly link the two facilities, Airbus desires to install subsurface communication lines between the buildings. To do so will require an easement across the City-owned parking lot at 243 North Mead. Airbus will be responsible for installing the lines, restoring the parking lot to its current condition after construction and repairing any future impact on the parking lot. If the easement ceases to be used for communication lines, it will terminate.

Financial Considerations: There is no cost to the City.

Goal Impact: The granting of the easement will aide in the redevelopment of this property, thus supporting a dynamic core area and vibrant neighborhood.

Legal Considerations: The Law Department has reviewed and approved the permanent easement as to form.

Recommendation/Action: It is recommended that the City Council approve the permanent easement and authorize all necessary signatures.

Attachments: Aerial, Permanent Easement

PERMANENT EASEMENT

THIS EASEMENT made this ___ day of _____, 2010, by and between the City of Wichita, Kansas, a Municipal Corporation, party of the first part, and Airbus North America Engineering, Inc., party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar and other Good and Valuable Considerations ($1.00), the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for communication purposes including constructing, maintaining, and repairing subsurface communication lines between the facilities commonly addressed as 238 North Mead and 213 North Mead over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

The South 10 feet of Lot 15, on Mead Avenue in George's Subdivision in East Wichita Addition, Wichita, Sedgwick County, Kansas.

And said second party, heirs and assigns is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such improvements provided that an disturbance or damage to the surface of the described real estate will be repaired and replaced in a manner and to a condition consistent with the condition of the surrounding area.

If the above described tract ceases to be used for above described use for a period of twelve (12) consecutive months, this easement shall terminate without further action of either party.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

City of Wichita, Kansas

_____

Carl Brewer, Mayor

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

This instrument was acknowledged before me on _____ day of _____, 2010 by Carl Brewer, Mayor of the City of Wichita, Kansas.

_____

Notary Public

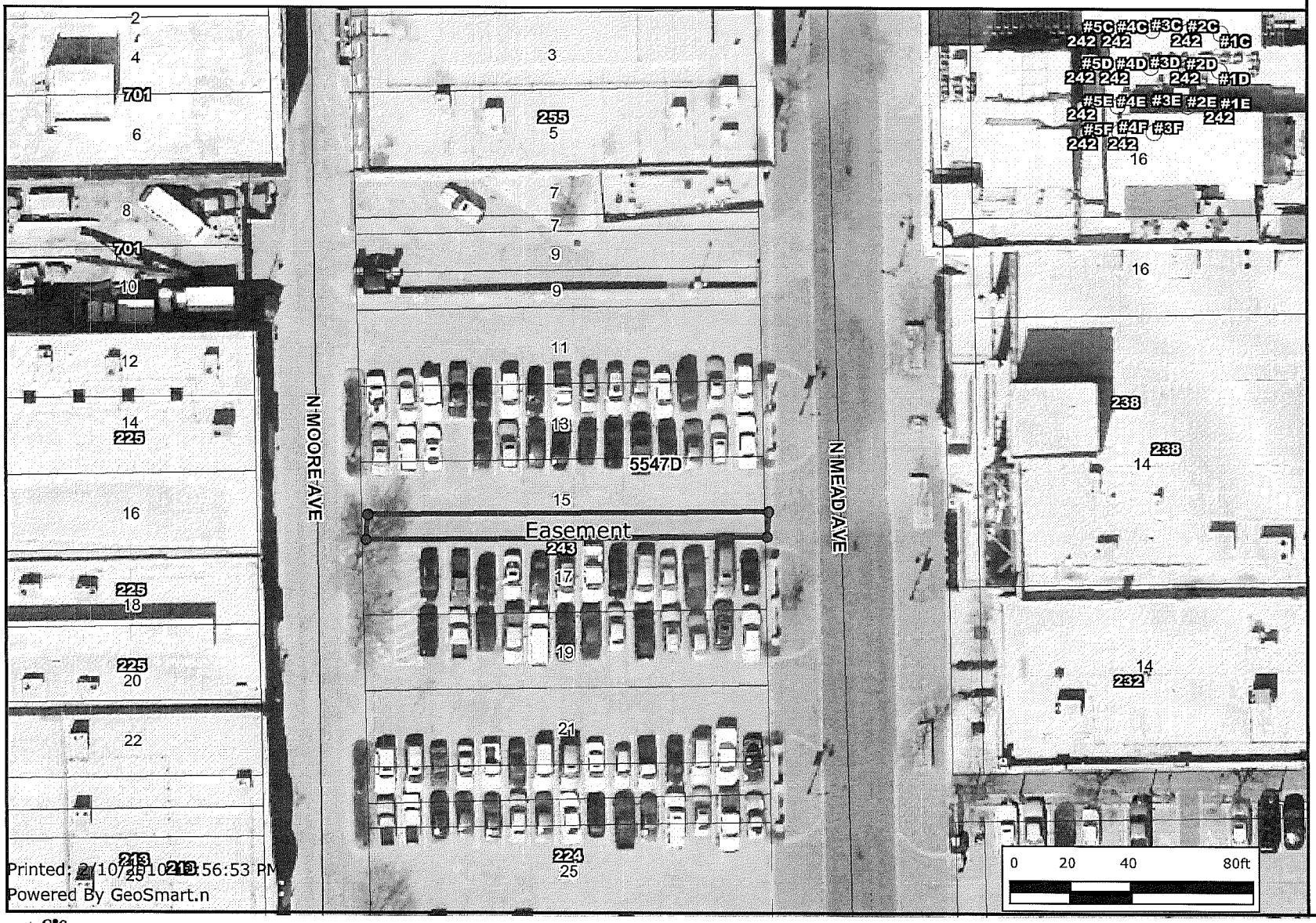
My Commission Expires: _____

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

Airbus Easement



- Property Parcels
- Lot Block
- Roads
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Parks
- Airports
- SDERASTER.S-DEDATA.ORTH-O1FT
- SDERASTER.S-DEDATA.ORTH-O
- City Limits
  - Andale
  - Bel Aire
  - Bentley
  - Cheney
  - Clearwater
  - Colwich
  - Derby
  - Eastborough
  - Garden Plain
  - Goddard
  - Haysville
  - Kechi
  - Maize
  - Mount Hope
  - Mulvane

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.

City of Wichita
City Council Meeting
February 23, 2010

To: Mayor and City Council

Subject: Resolution Authorizing Section 5316 Access to Jobs Grant from Federal Transit Administration (FTA)

Initiated By: Wichita Transit

Agenda: Consent

Recommendation: Approve the resolution authorizing filing of grant application.

Background: The Federal Transit Administration (FTA) grant application process, administered by Coordinated District 12, requires a resolution by the governing body authorizing staff to file grant applications to receive funds and administer the grant's program. The purpose of this resolution is to authorize staff to file for eligible federal funds for the support of the City's Access to Jobs transit services for June 2010, through May 2012. The authorized total federal apportionment for 2008-2009 is $453,544. Transit staff held a public hearing on January 19, 2010. Section 5316 funds are 50% federal funds and 50% local matching fund programs.

Analysis: The proposed resolution authorizes funding to support the purchase of rides for low-income clients under a brokerage system, utilizing other transportation providers within Wichita. Wichita Transit provides service for the clients of Social and Rehabilitation Services and nonprofit organizations, including Breakthrough Club, the Mental Health Association, and COMCARE.

Financial Consideration: The total grant budget is $907,088; federal share is $453,544. The local City match is $123,363, all in-kind services. The rest of the local match, which is $330,181, is from numerous agencies and nonprofits. Services will only be provided to the extent that a local match has been negotiated.

Goal Impact: To ensure an efficient infrastructure by maintaining and optimizing public facilities and assets.

Legal Consideration: The Law Department has reviewed and approved the resolution as to form.

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

Attachments: Resolution authorizing the application for JARC funding.

RESOLUTION No. 10-036

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE COORDINATED TRANSIT DISTRICT 12 FOR A GRANT WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICAFOR A GRANT UNDER SECTION 5316 OF THE SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU) TO SUPPORT LOCAL 2010-2012 JOB ACCESS AND REVERSE COMMUTE PROGRAM

WHEREAS, the Coordinated Transit District 12 is authorized to make Job Access and Reverse Commute grants for the Dept. of Transportation for mass transportation projects; and

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of the project cost in the program; and

WHEREAS, it is required by the U.S. Department of Transportation in accord with the provisions of Title VI of the Civil Rights Act of 1964, as amended, and the U.S. Department of Transportation requirements thereunder; and

WHEREAS, it is the goal of the applicant that disadvantaged business enterprises be utilized to the fullest extent possible in connection with this/these project(s), and that definite procedures shall be established and administered to ensure that disadvantaged business shall have the maximum feasible opportunity to compete for contracts when procuring construction contracts, supplies, equipment contracts, or consultant and other services; and

WHEREAS, the applicant desires financial assistance for the following projects: provide transportation services in urban, suburban and rural areas to assist welfare recipients and low income individuals access to employment opportunities; thereby creating a better cooperative effort among the transportation providers, human services agencies, employers and affected communities and individuals.

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

SECTION 1. The City Manager is authorized to execute and file an application on behalf of the City of Wichita, Kansas, with the Coordinated District 12 on behalf of the United States Department of Transportation, to aid in the financing of the local 2010 Job Access and Reverse Commute Program (it is anticipated that these funds will support the program through 2012 at the current usage level) including: to implement new transportation services, or extend existing services, to fill the gaps that exist in many areas between where welfare recipients and low income persons live and employment opportunities; and, to transport the general public from urban, suburban, and rural areas to suburban employment opportunities.

SECTION 2. The City Manager is authorized to execute and file with such application an assurance or any other document required by the United States Department of Transportation effectuating the purposes of Title VI of the Civil rights Act of 1964; and Americans with Disabilities Act of 1991, 49 C.F.R. Parts 27, 38 and 39.

SECTION 3. The City Manager is authorized to furnish such additional information as the United States Department of Transportation may require in connection with the application for the program of project and budget.

SECTION 4 The City Manager is authorized to set forth and execute affirmative disadvantaged business policies in connection with the program of projects and budget procurement needs.

SECTION 5. The City Manager is authorized to execute grant agreements, file grant revisions and amendments necessary to administer the Program of Project on behalf of the City of Wichita with the United States Department of Transportation for aid in the financing of this Section 5316 Project.

SECTION 6. This Resolution shall take effect and be in force from and after its adoption.

ADOPTED, at Wichita, Kansas this 23rd day of February 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

Agenda Item #_____

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: 2010 Enforcing Underage Drinking Laws (EUDL) Grant

INITIATED BY: Wichita Police Department

AGENDA: Consent

Recommendation: Approve the grant application and award.

Background: For the past six years, the Wichita Police Department has placed an emphasis on eliminating underage alcohol consumption in our community. In an effort to address this problem, the Wichita Police Department, in collaboration with community agencies and citizens, developed and implemented the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program. The goals of the JUDGE program are to educate the public on underage alcohol consumption issues and enhance proactive enforcement of laws applicable to underage alcohol consumption. In an effort to assist with this effort, the Police Department is applying for a grant funded by the Kansas Department of Transportation, Bureau of Traffic Safety. The Enforcing Underage Drinking Laws (EUDL) grant is being made available to communities to support their enforcement activities in the area of preventing underage alcohol consumption. The Wichita Police Department has received EUDL funding since 2004.

Analysis: The Kansas Department of Transportation is providing financial support in the form of a three-month mini-grant. Funds would be made available from March 1 through May 31, for overtime to support enforcement activities during Spring break, proms and graduations.

Financial Considerations: The Wichita Police Department's grant application requests funding for the JUDGE program in the amount of $29,318 for overtime to support enforcement activities. There is no local match.

Goal Impact: Provide a safe and secure community by placing an emphasis on eliminating underage alcohol consumption in our community.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the City Council approve the application and award and authorize the appropriate signatures.

Attachments: Grant application.

Attachment No. 1
Please submit 1
Signed application

APPLICATION FOR HIGHWAY SAFETY PROJECT
"Enforcing Underage Drinking Laws (EUDL)" Mini Grant Program

(All rules and regulations apply in accordance with Section 163 of Public Law 83-564)
KANSAS DEPARTMENT OF TRANSPORTATION
DIVISION OF PLANNING AND DEVELOPMENT
BUREAU OF TRANSPORTATION SAFETY AND TECHNOLOGY
700 SW HARRISON STREET
TOPEKA, KS 66603-3754

PROJECT TITLE: **J.U.D.G.E. – Wichita P.D.**

LOCATION: **Wichita Police Department**

TYPE OF APPLICATION (Check appropriate box)

DATE OF APPLICATION: **1-22-2010**

[X] **Initial** [ ] Revision [ ] Continuation

APPLICANT

NAME OF AGENCY:
Wichita Police Department

PROJECT DIRECTOR / TITLE:
Norman D. Williams / Chief

ADDRESS OF AGENCY: (Mailing, including zip code)
455 North Main, Wichita, KS 67202

PROJECT COORDINATOR:
Officer Michael Lloyd

TELEPHONE NUMBER: **(316) 688-9300**

FAX NUMBER: **(316) 858-7704**

GOVERNMENTAL UNIT: **City of Wichita, Kansas**

[ ] STATE [X] **CITY** [ ] COUNTY OTHER (Specify)_____

BUDGET (from enclosed Schedule B (s))	PROJECT PERIOD FY: 2010		
COST CATEGORY			
(A) Personal Services	$29,321.28		
(B) Commodities			
TOTAL ESTIMATED COSTS	$29,321.28		
GRAND TOTAL (All Years)	$29,321.28		

NAME AND ADDRESS OF AUTHORIZING GOVERNMENTAL UNIT

City of Wichita
Name

Address

Submitted by: I certify compliance with all criteria applicable for eligibility of the program and implementation in accordance with program requirements.

Please print name and sign under appropriate heading.

Project Director	Authorizing Governmental Official	KDOT Secretary
Norman D. Williams, Chief of Police	Robert Layton, City Manager	

For KDOT Bureau of Traffic Safety Use Only

Project Number: SP 2202-10

Contract Starting Date: 3/01/2010

Contract Number: JJ 1142-10

Contact Termination Date: 5/31/2010

Amount of Contract: $29,321.28

Contractor FEIN: 48-6000653

Federal Funds Obligated: 100%

Federal Funding Source: Juvenile Justice (JJ)

SCHEDULE A
GENERAL INFORMATION AND NARRATIVE

Proposal should address education and/or enforcement of the traffic safety problem in your local area. Use an additional page if necessary.

1. Describe the Problem (The Problem Statement.)

There has been a proliferation of underage drinking and access to alcohol within the City of Wichita, as well as across the nation over the past ten years. During the year 2009, the Wichita Police Department averaged 396 underage alcohol related arrests. There were also 1777 DUI arrests in 2009 with 111 (16.0%) of them being offenders under the legal drinking age. Of these, there were four fatality accidents with a driver under the legal drinking age. One of accidents involved a teenage driver who had been huffing canned air or dusting as it is more commonly known. Another one of the accidents involved a teen driver and an adult driver who were drag racing. The two wrecked and the adult driver was killed. The teen driver was under the influence of alcohol. During the course of the EUDL mini-grant in 2009, we were able to make approximately 98 arrests related to underage drinking and seized approximately 312 containers. We also had contact with 151 juveniles and 41 parents about the dangers and cost of underage drinking.

This is just the tip of the iceberg regarding the extent of the problem. As noted in an article in the American Medical Association, alcohol is the most frequently used drug by high school seniors, with the first time use between the ages of 11-13.

The City of Wichita and metro area have 21 high schools (16 in the corporate City limits) along with 3 colleges with on-site student housing. There are over 20,000 high school students within the City of Wichita metro area. Many of the students of Goddard, Valley Center, Andover and Maize live within the corporate City limits of Wichita.

2. Describe the project. (The Problem Solution)

Throughout 2009 the JUDGE coalition has continued to meet and work towards reducing the ways the juveniles can access or obtain alcohol. The coalition is still comprised of members of public schools, private schools, concerned parents and Law Enforcement. Members of the coalition have also been working with the Stand Together Coalition of Wichita. This is a joint effort to reach more members of the community and to educate as many people as possible.

The EUDL grant would allow us to expand our efforts in the JUDGE (Juvenile Underage Drinking Group Education/Enforcement) program combating underage drinking within the City of Wichita. The monies would be allocated to provide six, 6-hour special assignments for each of the four police patrol bureaus. Each assignment would be planned in conjunction with the following school events: Spring break, prom, and graduation.

The assignments will be multi-faceted, including aspects of compliance checks, third party sales interdiction, and party patrols.

3. Describe the outcome expected. (Quantifiable Performance Objectives)

Again this year we will be monitoring Juvenile contacts, underage drinking arrests, drug arrests, containers seized, as well as Juvenile party calls. We will be tracking compliance checks, third hand sales, and other community contacts.

By increasing enforcement measures, we hope to deter underage drinking as well as other associated illegal activity such as disturbance calls, vandalisms, and assaults. We will measure the success of the grant through statistical methods regarding enforcement and education.

Please submit budget information for each year applicable

Year: FFY 10

SCHEDULE B BUDGET INFORMATION		
For the contract period itemize the cost of each applicable category.	Cost	KDOT use only Federal Share
Personnel Services: Supervisor base pay $33.45 x 1.5 hourly rate $50.18 x 144 (no. of estimated hours dedicated) = $7,225.92 Total	$7,225.92	
Officer base pay $25.57 x 1.5 hourly rate $38.36 x 576 (no. of estimated hours dedicated) = $22,095.36 Total	$22,095.36	
Total Personnel Services:	$29,321.28	
Grand Total for Budget:	**$29,321.28**	

KDOT BTS Project No: **JJ 1142-10**

KANSAS DEPARTMENT OF TRANSPORTATION
HIGHWAY SAFETY PROJECT AGREEMENT

PARTIES:

Debra L. Miller, Secretary of Transportation
Department of Transportation for the State of Kansas
(Secretary)
Eisenhower State Office Building
700 SW Harrison Street
Topeka, KS 66603-3754

and:

Norman Williams, Police Chief
Wichita Police Department
455 N. Main
Wichita KS 67202

PURPOSE: To promote highway safety improvement. This highway safety improvement is identified by the Project No. above, in the city or county listed above. It will hereinafter be referred to as the Project, and further identified by the Application for Highway Safety Project Contract, Attachment No. 1, which is incorporated by reference and made a part of this Agreement.

EFFECTIVE DATE: The Parties shall be mutually obligated to perform in accordance with this Agreement as of:

March 1, 2010

TERMS OF THE AGREEMENT

Article I - THE SECRETARY AGREES:

1) To reimburse the project Applicant for the work completed and actual costs incurred for commodities in the performance of this Agreement in an amount not to exceed a total price of as provided in the Project Application Attachment 1, which is incorporated by reference and made a part of this Agreement.

2) To make payments to the Project Applicant at intervals of not less than one calendar month.

Article II - THE PROJECT APPLICANT AGREES:

1) To furnish the necessary personnel, facilities, and such other professional services as may be required to fulfill the work identified and described in the Project.

2) To begin the Project upon receipt of Secretary's written notice to proceed and shall execute this Project to completion on or before:

May 31, 2010

3) To prepare and deliver to the Secretary during and upon completion of the Project all reports as required.

4) To pay actual project costs prior to any reimbursement claim to the Secretary and submit, at a minimum, reimbursement invoices to the Secretary after costs have been incurred.

5) That funds provided under this Agreement shall not supplant any activity or expenditure provided for by Project Applicant's current budget.

6) To maintain accounting records, which shall be made available at all reasonable times during the agreement period and for three years from the date of the final payment.

7) That the services to be performed by the Project Applicant are personal and cannot be assigned, sublet, or transferred without consent of the Secretary.

8) That the Secretary shall at all reasonable times have access to the premises to review and inspect the work and related records. Arrangements for all reviews and inspections by the appropriate federal agency shall be made by the Secretary.

9) The Project Applicant, by acceptance of this Agreement, acknowledges that the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement as set forth in the Federal O.M.B. Circular A-133, Audits of State and Local Governments, attached hereto and made a part of this Agreement. The Secretary and the Project Applicant agree that as the Single Audit Report becomes available for the reimbursement period, that the Secretary will review it for items which are declared as not eligible for reimbursement. If such non-eligible-for-reimbursement items are subsequently found by audit, the Project Applicant will refund to the Secretary the total amount paid for same.

10) That the Project Applicant may be allowed one, 90-day extension upon showing good reason and submitting his request to the Secretary in writing 30 days prior to the completion date. This extension must have the concurrence of the appropriate federal agency.

11) Disputed matters arising under this Agreement that are not mutually resolved, shall be decided by the Secretary, whose decision shall be final and binding.

12) That this Agreement, for any reason, may be terminated upon thirty (30) days written notice by either party; Provided, however, the Project Applicant shall not be paid more than that which would be received under the terms of the Agreement for that portion of services rendered to the date of termination. The parties further agree that termination due to Project Applicant's default shall result in forfeiture of any retainage of compensation due the Project Applicant as of the day of termination.

13) The provisions found in the Contractual Provisions Attachment, Attachment No. 4 (form DA-146a) are incorporated into this Agreement and made a part hereof.

14) Attachment No. 3, pertaining to the implementation of the Civil Rights Act of 1964, is incorporated by reference and made a part hereof.

15) The Certification of the Project Applicant, Attachment No. 2, is incorporated by reference and made a part hereof.

16) This Agreement shall be binding upon the parties hereto and their successors and assigns.

17) It is expressly agreed that no third party beneficiaries are intended to be created by this Agreement, nor do the parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

LOCAL AUTHORIZING OFFICIALS

X

Robert Layton, City Manager

X

Norman Williams, Police Chief
Wichita Police Department

KANSAS DEPARTMENT OF TRANSPORTATION

Deb L. Miller
Secretary of Transportation for
the State of Kansas

FORM APPROVED BY
Legal Dept.
KDOT

Certification of the PROJECT APPLICANT

I hereby certify that I am **Norman Williams, Police Chief** and I am the duly authorized representative of the: **Wichita Police Department**

and that neither I nor the above agency I here represent has:

(a) employ or retain for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above agency) to solicit or secure this Agreement; or

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or

(c) paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above agency) any fee, contribution, donation, or consideration of any kind for or in connection with, procuring or carrying out this Agreement;

except as here expressly stated (if any):

I acknowledge that this Certificate is to be furnished to the Secretary of Transportation of the State of Kansas in connection with this Agreement, and is subject to applicable state and federal laws, both criminal and civil.

X _____ _____

Norman Williams, Police Chief
Wichita Police Department

Date:

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS (1994), and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively insure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following seven "Nondiscrimination Clauses".

CLARIFICATION

Where the term "consultant" appears in the following seven "Nondiscrimination Clauses", the term "consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the consultant, or the consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

(1) Compliance with Regulations: The consultant will comply with the Regulations of the U. S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Parts 21, 23 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The consultant, with regard to the work performed by the consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontractors, Including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

(4) Information and Reports: The consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.

(5) Employment: The consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.

(6) Sanctions for Noncompliance: In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,

(a) withholding of payments to the consultant under the contract until the contractor complies, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(7) Disadvantaged Business Obligation:

(a) Disadvantaged Businesses as defined in the Regulations, shall have a level playing field to compete fairly for contracts financed in whole or in part with Federal funds under this contract.

(b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.

(c) The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Federally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

(8) Executive Order 12898: To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the state of Kansas and use such information in complying with this Order.

(9) Incorporation of Provisions: The consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the consultant may request the State to enter into such litigation to protect the interests of the State.

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provisions:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

1) Terms Herein Controlling Provisions: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

2) Agreement With Kansas Law: All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

3) Termination Due To Lack Of Funding Appropriation: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4) Disclaimer Of Liability: Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total $5,000 or less during the fiscal year of such agency.

6) Acceptance Of Contract: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7) Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8) Representative's Authority To Contract: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9) Responsibility For Taxes: The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10) Insurance: The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

11) Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12) The Eleventh Amendment: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Contract Amendment to Greater Wichita Convention & Visitors Bureau 2010

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: It is recommended that City Council approve the contract amendment between the City of Wichita and the Greater Wichita Convention & Visitors Bureau d/b/a Go Wichita.

Background: The City of Wichita and Go Wichita have previously entered into a contract effective December 1, 2009 for services to be provided through calendar year 2010. The payment provisions in the current contract require clarity for meaningful administration of the goals previously established by City Council.

Analysis: To clarify compensation and the method of payment, the amendment identifies that Go Wichita will conduct project activities and services to achieve satisfactory progress toward accomplishing performance standards as described in Exhibit B.

As payment for meeting the standards outlined in Exhibit B, the City agrees to pay Go Wichita an amount not to exceed $2,221,390, which includes $100,000 in matching funds when Go Wichita exceeds its 2010 baseline goal of $200,000. It also agrees Go Wichita will receive and disburse additional sponsorship funds to applicant organizations listed in Exhibit C; not to exceed $150,000.

The City and Go Wichita also acknowledge that there are two items labeled Exhibit A as an attachment to the original approved contract. The first one was the Non-Discrimination Act and the second, a single page item now properly denominated as Exhibit C to that contract. Exhibit C is included as an attachment to the amendment. Both the City of Wichita and Go Wichita agree that all remaining terms and conditions of the existing contract from December 1, 2009 will remain in full force and effect.

Financial Considerations: Funding for the Convention and Tourism Fund comes from a six percent transient guest tax on hotel and motel rooms in Wichita. The 2010 Adopted Budget includes funding for Go Wichita's annual allocation in the amount of $2,121,390, which is to be paid from the Convention & Tourism Fund. The City agrees to advance Go Wichita $176,782.50 each month. Go Wichita may also receive up to $100,000 in matching funds if its private fund exceeds its 2010 baseline goal of $200,000. In addition, the applicant organizations listed in Exhibit C may be reimbursed up to $150,000 of the Convention Promotion Contingency funds, which is also financed from the Convention & Tourism Fund.

Goal Impact: Economic Vitality and Quality of Life. This project impacts Wichita's economic development by having a direct correlation to the vitality and success of the tourism and service industries. Go Wichita helps to promote attendance at various cultural attractions and events.

Legal Considerations: The Law Department has reviewed and approved the Amendment to the Contract as to form.

Recommendations/Actions: It is recommended that the City Council approve the contract amendment.

Attachments: Original signed contract with attachments:
Exhibit A – Non-discrimination Statement
Exhibit B – 2010 Performance Criteria
Exhibit C – 2010 Sponsorships – Convention & Promotion Contingency
Amendment to original contract

Wichita Convention and Tourism Bureau, Inc. Contract Amendment

This contract amendment is created to have an effective date of January 1, 2010 between the City of Wichita, Kansas and Wichita Convention and Tourism Bureau, Inc.
The parties previously entered into a currently effective contract on December 1, 2009 for services to be provided through calendar year 2010. The payment provisions in the current contract require clarity for meaningful administration toward the goals established by the City Council previously.

Therefore, the following provisions of the above-mentioned contract are modified to read as follows:
Section 10. Payments.

A. Compensation and Method of Payment. Compensation and method of payment to the Delegate Agency relative to conducting the operations of the project activities and services as described herein will be made for satisfactory progress toward accomplishing the performance standards described in attached Exhibit B. These payments will be administered under the established accounting and fiscal policies of the City of Wichita.
B. Total payments to the Delegate Agency will not exceed $2,221,390 for meeting all Exhibit B performance standards. The Delegate Agency will receive and disburse additional sponsorship monies to the applicant organizations listed on the attached exhibit C, in a total amount not to exceed $150,000.

The parties acknowledge that there are two items labeled Exhibit A as an attachment to the original approved contract. The second, single page item so labeled is properly denominated as Exhibit C to that contract, and is so labeled and attached to this amendment for reference in relation the original contract and this amendment.

The parties agree that all of the remaining terms and conditions of the existing contract from December 1, 2009 shall remain in full force and effect.

In witness whereof, the parties have executed this contract on _____ of February, 2010.

City of Wichita, Kansas

Attest:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

Delegate Agency

_____
John Rolfe, President/CEO
Wichita Convention & Tourism Bureau, Inc. d/b/a Go Wichita Convention & Visitors Bureau

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

WICHITA CONVENTION AND TOURISM BUREAU, INC.

THIS CONTRACT entered into this December 1, 2009 by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Wichita Convention and Tourism Bureau, Inc. (hereinafter referred to as the Delegate Agency).

WHEREAS, the City by Charter Ordinance has instituted a Transient Guest Tax, the revenues from which are available for expenditure for convention and tourism activities located within the City and County; and

WHEREAS, the City believes that as a result of professional, promotional sales and services, convention and tourism can be increased; and

WHEREAS, the City desires to engage the Delegate Agency to render certain itemized professional services and activities hereinafter described; and

WHEREAS, the Delegate Agency warrants that it employs, and throughout the duration of this contract will continue to employ, professional staff capable of providing those services and activities occurring within the City; and

WHEREAS, the Delegate Agency further warrants that it possesses the fiscal and administrative capability necessary to account for and to expend all City funds provided in compliance and conformance with the terms and conditions of this contract; and

WHEREAS, the City desires to generate new dollars in the Wichita area economy through the promotion of Wichita as a convention and visitor destination.

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Delegate Agency, assuming responsibility for the implementation of actual operation of a certain project herein specified, shall perform services in a satisfactory and proper manner as determined by the City and outlined per Exhibit B.

In addition, Delegate Agency will support a joint marketing venture with other agencies receiving Transient Guest Tax funds and will not charge other City-affiliated museums or attractions such as, but not limited to, the Wichita Art Museum, Botanica, the Mid-America All-Indian Center, Old Cowtown Museum, Wichita-Sedgwick County Historical Museum, the Kansas Aviation Museum, and the Kansas African American Museum, fees to participate in Delegate Agency's marketing or membership activities.

SECTION 2. TIME OF PERFORMANCE. The services of the Delegate Agency are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of this contract through a period of twelve months ending no later than December 31, 2010.

SECTION 3. RECORDS, REPORTS AND INSPECTION

A. Establishment and Maintenance of Records. The Delegate Agency shall establish and maintain records as prescribed by the City (with respect to all matters covered by this contract). Except as otherwise authorized by the City, the Delegate Agency shall retain such financial records for a period of three years after receipt of the final payment under this contract or termination of this contract.

B. Documentation of Costs. All costs with respect to the services per Exhibit B shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and Information. The Delegate Agency, at such times and in such forms as the City may require, shall furnish to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract. The Delegate Agency will submit said reports on the date(s) designated by the City. In addition, the Delegate Agency will submit all regularly required reports as itemized on Exhibit B on the due dates established therein.

D. Audits and Inspections. The Delegate Agency shall at any time during normal business hours and as often as the City may deem necessary make available to the City for examination all of its records and data with respect to all matters covered by this contract and shall permit the City or its designated authorized representative to audit and inspect all invoices, materials, payrolls, records of personnel conditions of employment and other data relating to all matters covered by this contract. The Delegate Agency, within 120 days from the date of expiration of this contract shall furnish to the City an annual fiscal audit prepared by an independent Certified Public Accountant as to the compliance of all stipulations in this contract and its exhibits.

SECTION 4. CONFLICT OF INTEREST. Members of the Board of Directors of the Delegate Agency shall abstain from any action in regard to a pending matter before the Board of Directors that will affect any business in which such Director has a substantial interest as defined in K.S.A. 75-4301.

SECTION 5. DISCRIMINATION PROHIBITED. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in

whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, sex or age. (Reference Title VI of the Civil Rights Acts of 1964 Pub. L. 88-352). The Delegate Agency further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements" as provided in Exhibit A attached hereto.

SECTION 6. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments with respect to the services per Exhibit B.

SECTION 7. ASSIGNABILITY. The Delegate Agency shall not assign any interest in this contract without prior written consent of the City.

SECTION 8. COPYRIGHTS. If this contract results in a book or other materials which may be copyrighted, the author is free to copyright the work, but the City reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use all copyrighted materials and all material which can be copyrighted. The Delegate Agency agrees to allow the City use of any and all books or materials, copyrighted or otherwise, which may pertain to marketing, managerial, or financial operations of the Delegate Agency.

SECTION 9. USE AND DISPOSITION OF PROPERTY.

A. Ownership During Usage by Agency. All office equipment, supplies, materials and other personal property purchased in whole or in part with funds pursuant to this contract and used for the administration of this contract or in the administration of a program operated by the City shall be the sole and exclusive property of the City unless otherwise specified in Exhibit B.

B. Disposition of Personal Property. In the case of termination of the funding or of any individual project activity, all personal property in the possession of the Delegate Agency or the Agency's representative(s) purchased with funds under this contract shall be returned to the City immediately upon the termination of the contract. The Delegate Agency shall be responsible for any item(s) that are included on the Agency's inventory list. If these items are not returned to the City, the Agency shall forthwith reimburse the City for the appraised value of said item(s) less reasonable depreciation as mutually agreed by the City and the Delegate Agency, unless otherwise specified in Exhibit B.

SECTION 10. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Delegate Agency relative to conducting the operations of the

project activities and services as herein described will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total payments to the Delegate Agency will not exceed $2,221,390, unless modified as provided herein.

C. Restriction on Disbursement. No transient guest tax funds shall be disbursed to a subcontractor of the Delegate Agency except pursuant to a written contract that incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the City; or if it is determined that the transient guest tax revenues are not sufficient to meet all budgeted services and activities of the total transient guest tax budgets which are established for the year under which this contract is in effect.

SECTION 11. TERMINATION CLAUSE. Upon breach of the contract by the Delegate Agency, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 15, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. Upon cancellation or termination of this contract no further funds shall be payable or paid hereunder; and all funds remaining in the possession of the Delegate Agency at the time the City gives the cancellation notice shall be forthwith returned to the City. Upon breach of the contract by the Delegate Agency, it shall be entitled to be reimbursed by the City for actual expenditures incurred under the Contract.

SECTION 12. AMENDMENTS.

A. Changes. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Delegate Agency mutually agree, changes in this contract may be effected by placing them in written form and incorporating them into this contract.

B. Budget Transfers. All budget transfers shall be approved and signed by all the signatories of the original contract if such a transfer shall substantially change the intent of the contract. Upon determination by the City Manager such an amendment should be presented to the City Council for approval, he shall place the amendment on the City Manager's Agenda for consideration by that governing body.

SECTION 13. PERSONNEL AND SERVICES. All services required herein will be performed by the Delegate Agency under the direction of its Board of Directors.

SECTION 14. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of this contract.

SECTION 15. ANTI-TRUST LITIGATION. For good cause, and as consideration for execution of this contract, the Delegate Agency, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Delegate Agency pursuant to this contract.

SECTION 16. APPENDICES. All exhibits referred in this contract and all amendments of mutually agreed upon modification made by both parties are hereby incorporated as though fully set forth herein.

SECTION 17. INDEPENDENT CONTRACTOR. The Delegate Agency may negotiate directly for conventions, events and other bookings in order to generate room nights intended to generate a direct economic benefit for the local economy. In so doing, the Delegate Agency will be an independent contractor, and not the agent of the City. The Delegate Agency will not represent or imply to others that it possesses any agency authority on behalf of the City.

In support of the Delegate Agency's endeavors to obtain convention and similar bookings, the City may, from time to time, approve financial support and facilitate accommodations to the Delegate Agency, subject to availability of adequate funds properly budgeted and appropriated for this purpose.

EXHIBIT A Nondiscrimination and Equal Employment Opportunity Statement
EXHIBIT B Performance Criteria
2010 Convention and Promotion Contingency

IN WITNESS WHEREOF, the parties have executed this contract on the December 9, 2008

THE CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

DELEGATE AGENCY

John Rolfe, President/CEO
Wichita Convention & Tourism
Bureau, Inc. d/b/a Go Wichita
Convention &Visitors Bureau

Approved as to Form:

Gary E. Rebenstorf, Director of Law

Exhibit 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.

EXHIBIT B

Go Wichita Convention & Visitors Bureau
2010 Performance Criteria

It is mutually agreed and understood by the City of Wichita and the Wichita Convention and Tourism Bureau, Inc., d/b/a/ Go Wichita Convention & Visitors Bureau, hereinafter referred to as the "City" and the "Delegate Agency" respectively, that the execution of this contract commits the Delegate Agency to the following goal statements and objectives.

MISSION STATEMENT

The mission of the Go Wichita Convention & Visitors Bureau is to market the Greater Wichita Area as a destination, thereby enhancing the economic development of the city, county, region and state.

ECONOMIC IMPACT

Tourism impacts the Wichita economy in several ways including bringing new dollars into the Wichita area, generating tax revenue and creating jobs. The Delegate Agency periodically conducts research to measure economic impact. According to our latest study:

- The Wichita area has over 3 million annual visitors
- Over $356 million is generated in direct expenditures from individuals outside of the four county MSA
- Visitors pay Lodging tax, State Sales tax and County Sales tax - taxes paid by visitors represent taxes that do not have to be paid by Wichita residents
- There are over 13,000 tourism related jobs in the Wichita area (4.7%)

Note: Delegate Agency is in the process of updating research information

OBJECTIVE #1: The Delegate Agency will generate convention/meeting and travel trade business for Wichita.

1. Convention Sales Future Bookings (Conventions booked from Jan 1-December 31, 2010)

   2010 Goal: Generate 120,000 room nights

	2005	2006	2007	2008	2009 (Forecast)	2009 Goal	2010 Goal
Room Nights Secured:	102,072	111,289	106,071	111,908	115,000	110,000	120,000
Summation of Bookings:	546,340						
Benchmark (5 yr avg.):	109,268						

2. Tourism Sales Bookings (Tours hosted from Jan 1-December 31, 2010).

   a. Motorcoach Overnight Tours:

2010 Goal: Generate Motorcoach overnight Tours utilizing a total of 3,200 room nights

	2005	2006	2007	2008	2009 (Forecast)	2009 Goal	2010 Goal
Motorcoach Room Nights Secured:	1,546	2,922	1,877	1,487	1,200	1,600	1,600
*Performance Group Room Nights Secured:				1,600	1,000	1,600	1,600
Total Room Nights Secured:	1,546	2,922	1,877	3,087	2,200	3,200	3,200
Summation of Bookings:	11,632						
Benchmark (5 yr avg.):	2,326						

* 2008 is the first year we have tracked/serviced this market segment.

   b. Motorcoach Day Trips:

2010 Goal: Generate Motorcoach Day Trips for a total of 4,000 passengers

	2005	2006	2007	2008	2009 (Forecast)	2009 Goal	2010 Goal
Day Trip Passengers:	4,904	5,124	3,105	4,781	2,500	4,000	4,000
Crown Uptown - Church Basement Ladies performance				1,584			
Day Trip Passengers net of Large Bookings:	4,904	5,124	3,105	3,197	2,500	4,000	4,000
Summation of Typical Passengers:	18,830						
Benchmark (5 yr avg.):	3,766						

OBJECTIVE #2: The Delegate Agency will implement a multi-faceted marketing program promoting the Greater Wichita Area as a destination.

1. Increase reach to regional television viewers
   2010 Goal: 4,200,000 viewer impressions

	2007 Viewers	2008 Viewers	2009 Viewers Forecast	2009 Viewers Goal	2010 Viewers Goal
Kansas Ads:	6,686,920	20,606,643	33,000,000	25,000,000	33,000,000
Wichita Specific Ads:			4,195,000		4,200,000

Note: Go Wichita participates in the Kansas Travel & Tourism (KST&T) co-op television advertising campaign. In 2009, KST&T originally planned to advertise in Kansas City, Oklahoma City, Tulsa, Springfield, Columbia, Lincoln and Omaha, but added Minneapolis St. Paul and St. Louis when three additional Kansas cities bought into the coop. As a result of these additional buys, 2009 actual viewers exceeded the goal. Go Wichita assumes that these additional buys will continue and is including them in the goal for 2010. Traditionally we have tracked all of the Kansas television ads as a whole. Beginning in 2009 we have tracked both the ads as a whole as well as the Wichita Specific ads.

2. Increase regional and statewide billboard impressions
   2010 Goal: 30,000,000 impressions

2006 Impressions	2007 Impressions	2008 Impressions	2009 Impressions Forecast	2009 Impressions Goal	2010 Impressions Goal
83,637,098	122,838,560	130,240,734	67,500,000	123,000,000	30,000,000

Note: During 2009, as part of the new advertising campaign, the billboard campaign was evaluated with our advertising agency and the number of billboards was reduced.

3. Increase quality national, regional and statewide print advertising impressions
   2010 Goal: 12,000,000 impressions

2006 Impressions	2007 Impressions	2008 Impressions	2009 Impressions Forecast	2009 Impressions Goal	2010 Impressions Goal
7,325,629	14,423,930	12,726,221	15,325,170	15,000,000	12,000,000

Note: In past years, when reporting print impressions, online advertising has been combined with print advertising. In 2010 we will report online advertising as a separate category.

4. Increase online advertising impressions
2010 Goal: 6,000,000 impressions

2010 Impressions Goal
6,000,000

Note: Online advertising impressions is a new category that will be tracked beginning in 2010.

5. Increase state and regional radio impressions
2010 Goal: 1,000,000 Impressions

2008 Impressions	2009 Impressions Forecast	2009 Impressions Goal	2010 Impressions Goal
903,100	709,000	1,000,000	1,000,000

Note: Go Wichita participated in the Kansas Travel & Tourism co-op radio campaign.

6. Increase website page views and visits
2010 goal: 600,000 visits 3,500,000 Page views

	2008	2009 Forecast	2009 Goal	2010 Goal
Page Views	2,541,576	2,200,000	3,000,000	3,500,000
Visits	406,554	400,000	500,000	600,000
Interactive VG visits	3,091	3,200	3,500	4,000

7. Increase number of "story pitches" with national and regional media & travel writers
2010 Goal: 36 story pitches

2010 Goal
36

Note: Traditionally, all media and travel writer contacts have been tracked in the same category regardless of the reason for contact. Beginning in 2010, as part of our marketing objective (objective #2), Go Wichita will track "story pitches" made to national and regional media & travel writers instead of contacts with media and travel writers. This includes all media outside of the local Wichita area as well as all travel writers. Local Media responses will be tracked separately under objective #3.

Contacts with media/travel writers

	2006 Contacts	2007 Contacts	2008 Contacts	2009 Forecast	2009 Goal
Local	494	185	306	100	275
Regional/ National				200	
Total	494	185	306	300	275

OBJECTIVE #3: The Delegate Agency will generate positive awareness of tourism as an industry and build community support for Go Wichita, the Delegate Agency, and it's mission, vision and goals.

1. Hospitality Training Program (Customer Service Professional - CSP)

	2005	2006	2007	2008	2009 Forecast	2009 Goal	2010 Goal
Sessions	3	7	6	6	2	8	8
Participants	33	129	74	119	25	150	150
Certifications	11	40	21	29	25	50	50

Note: In order to update the program, CSP training was suspended for a portion of 2009.

2 Local Media Responses

2010 Goal
50

Note: Local Media Responses (LMR) is a new category that will be traced beginning in 2010. LMR are responses to the local Wichita area media on various tourism related issues.

OBJECTIVE #4: The Delegate Agency will provide film and production crew assistance.

2006	2007	2008	2009 Forecast	2009 Goal	2010 Goal
45	57	61	30	60	40

Note: Go Wichita has traditionally tracked the number of leads for film and production crew assistance. In 2010 we will track responses to leads.

OBJECTIVE #5: The Delegate Agency will secure additional private funding resources to augment the Delegate Agency's transient guest tax allocation.

1. In-Kind Contributions

2010 Goal: **$160,000** of in-kind contributions from hospitality industry partners to augment the Delegate Agency's marketing efforts

	2005	2006	2007	2008	2009 (Forecast)	2009 Goal	2010 Goal
In-kind Donations:	$ 114,576	$ 192,842	$ 172,033	$ 105,889	$ 100,000	$ 160,000	$ 160,000
Less Extraordinary Media Gifts:		$ (84,175)					
Typical Gift value:	$ 114,576	$ 108,667	$ 172,033	$ 105,889	$ 100,000	$ 160,000	$ 160,000
Summation of Typical Gift value:	$ 601,165						
Benchmark (5 yr avg.):	$ 120,233						

2. Cash Contributions
2010 Goal: **$300,000** in private revenues. The City of Wichita agrees to match each dollar collected above $200,000, not exceeding $100,000 in additional matched funds.

	2005	2006	2007	2008	2009 (Forecast)	2009 Goal	2010 Goal
Private Revenues:	$ 228,220	$ 264,724	$ 317,154	$ 304,912	$ 300,000	$ 300,000	$ 300,000
Summation of Private Revenue:	$ 1,415,010						
Benchmark (5 yr avg.):	$ 283,002						

OBJECTIVE #6: The Delegate Agency will support and influence the development and maintenance of accommodations, facilities, attractions and infrastructure that are consistent with the Delegate Agency's mission statement and that meet the needs of visitors.

Industry Indicators

The Delegate Agency will quarterly track the following industry indicators which reflect the economic growth and impact of tourism in the area.

- Transient Guest Tax Revenues
- Hotel Occupancy Rate
- Hotel Average Daily Rate (ADR)
- Report quarterly and yearly historical comparison at area attractions

2010 Operating Budget

2010 Approved Budget	$ 2,121,390
Monthly Advance	$ 176,782.50

1. **Method of Payment**

The Delegate Agency agrees payments under this contract shall be in accordance with established budgetary, purchasing and accounting procedures of the city of Wichita.

1.1. The City agrees to advance the Delegate Agency 1/12th of the approved Operating Budget on the first Friday of each month. The Delegate agency, upon closing their month-end books, will submit an invoice for all monthly expenditures to the City for approval. The City may request additional justification regarding items submitted for payment and may decline payment for items not related to the promotion of convention and tourism in the City of Wichita. All billings are subject to discussion and resolution by and between the City Manager and the President/CEO of the Delegate Agency, or their representatives. All final billings and payments will be reconciled at year-end. The City, at the Delegate Agency's request, will consider additional funding for special tourism projects that will enhance tourism initiatives.

2. **Information to be provided by the Delegate Agency to the City**

   2.1. A monthly printout, which reflects all actual expenditures by line item and program expenditure.
   2.2. An annual audit conducted by an independent Certified Public Accountant, which is in accordance with generally accepted audit standards. For the 2009 annual audit, the audit firm of BKD, LLP has been retained by the Delegate Agency.
   2.3. The Delegate Agency will provide to the City Appointed Board Representative a copy of the Board of Directors minutes.

3. **Inventory**

   The Delegate Agency shall maintain in its office and file with the City an up-to-date inventory list of all personal property, e.g. furniture, fixtures, equipment, etc. purchased with transient guest tax funds and used for the administration of the program or in the administration of a project operated in conjunction with the contract. Such inventory list must identify each item purchased, state the physical location of same, the cost of each item, the date purchased and the City of Wichita inventory seal number must be affixed to each item. Authorized additional items purchased during the contact year shall be reported to the City within 30 days of receipt.

   The Delegate Agency shall be responsible for conducting a physical inventory of each of the inventoried items with its final report for the contract year, certifying in written form that all such inventory items are in the possession of the Delegate Agency. No inventory items may be disposed of in any fashion without the prior written approval of the City.

4. **Program Progress Reports**

   The Delegate Agency as part of its obligation under section 3 of this contract shall submit a quarterly report to the City of Wichita for the quarters ending March 31, June 30, September 30, and December 31. These reports shall be due in the City Manager's Office in order to provide the City with the information to evaluate the Performance Criteria section of this contract. This report shall be submitted no later than 45 days following the end of each quarter.

Go Wichita Convention & Visitor Bureau

2010 Sponsorships - Convention & Promotion Contingency

Event Sponsorships		
Wichita Flight Festival	$	5,000
	$	5,000
National Sponsorships		
73rd Bomb Wing	$	1,000
Ad Valorem Taxation Conference	$	1,500
Other National Sponsorships	$	42,500
Black Top Nationals		
Council of Engineering and Scientific Society Executives		
Grain Elevator And Processing Society		
GTO Automobile Association International Show and Meet		
Society of Automotive Engineers International		
Society of Decorative Painters		
	$	45,000
Regional Sponsorships		
Equifest	$	300
Midwest Catholic Family Conference	$	2,000
Other Regional Sponsorships	$	4,100
	$	6,400
State Sponsorships		
Kansas Farm Bureau	$	250
Kansas Housing Resource Corp	$	1,000
Other State Sponsorships	$	1,750
	$	3,000
Sports Sponsorships		
Johnny Bench Award Banquet	$	1,000
Wichita Open	$	3,000
Region VI Sports	$	5,000
Woody Austin Golf Tournament	$	2,500
Other Sports Sponsorships	$	24,450
	$	35,950
New Requests	$	34,650
City Reserved Amount	$	20,000
Total	**$**	**150,000**

CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Acquisition by Eminent Domain of a Tract Required for the Cowskin Creek Channel Improvement Project from Kellogg to Maple (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Adopt the resolution and approve and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property.

Background: In 2005, an easement for ponding and flowage was acquired over 13.85 acres immediately north of Kellogg for the Cowskin Creek Channel Improvement project. In order to more fully meet the requirements of the project, it is now necessary to acquire the owner's remaining interest in the land, providing the City with fee simple ownership. Since the initial acquisition, part of the property has been sold, leaving 12.25 acres to be acquired.

Analysis: City staff has been attempting to negotiate a purchase of the identified property but has been unable to reach an agreement with the owners. The tract was appraised at $62,000. This amount was rejected and the owner has made a counter offer of $150,000. Staff will continue to negotiate with the owners during the eminent domain process.

Financial Considerations: The cost of this acquisition will be paid for by the City at large.

Goal Impact: The acquisition of these parcels is necessary to ensure efficient infrastructure.

Legal Considerations: The Law Department has approved the resolution and ordinance as to form.

Recommendation/Action: Adopt the resolution and approve 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 map, resolution and ordinance.

PUBLISHED IN THE WICHITA EAGLE ON

ORDINANCE NO. 48-

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION AND IMPROVEMENT OF THE COWSKIN CREEK CHANNEL FROM KELLOGG TO MAPLE IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

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

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for improvement of the channel of the Cowskin Creek from Kellogg to Maple in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88˚20’30”E along the common line as extended East, 659.8 feet to the point of Beginning, said point being on the West line of a Ponding and Overland Flowage Easement on DOC#/FLM-PG: 28652650; thence continuing N88˚20’30”E, 145.66 feet; thence S14˚10’35”E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74˚04’48”E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence N01˚28’11”W, along the West line of said Miles Lakewood Village Second Addition, 660.47 feet to a bend point in said Miles Lakewood Village Second Addition; thence S88˚03’19”W, along the South line of said Miles Lakewood Village Second Addition, 347 feet to a bend point; thence N01˚56’41”W, along the West line of said Miles Lakewood Village Second Addition, 521 feet more or less to the N.W. corner of said Miles Lakewood Village Second Addition, said point being the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88˚20’41”W along the South line of the North 40 acres of said SW1/4, 491.48 feet to a point on the West line of a Ponding and Overland Flowage Easement on DOC#/FLM-PG: 28652651; thence S25˚52’23”W along said Easement, 38.55 feet; thence S16˚20’54”E, 124.1 feet; thence S22˚33’08”E, 179.57 feet; thence S11˚19’07”E along the West line of a Ponding and Overland Flowage Easement on DOC#/FLM-PG: 28652651, and DOC#/FLM-PG: 28652650, 120.39

feet; thence S16˚26'04"E along Said DOC#/FLM-PG: 28652650, 101.68 feet; thence S35˚39'24"E, 95.48 feet; thence S51˚17'57"E, 146.12 feet; thence S36˚46'09"E, 96.11 feet; thence S12˚55'02"E, 59.72 feet to the point of beginning.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 9th day of, March 2010.

CITY OF WICHITA

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

660792

Published in the Wichita Eagle on February 26, 2010

RESOLUTION NO. 037

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH PLANNED COWSKIN CREEK CHANNEL IMPROVEMENT PROJECT FROM KELLOGG TO MAPLE.

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements to the Cowskin Creek channel from Kellogg to Maple; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

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

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with improvement of.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 23rd day of February, 2010.

CITY OF WICHITA

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

Savoy Company, P.A.
433 S. Hydraulic
Wichita, KS 67211-1911
PH (316) 265-0005
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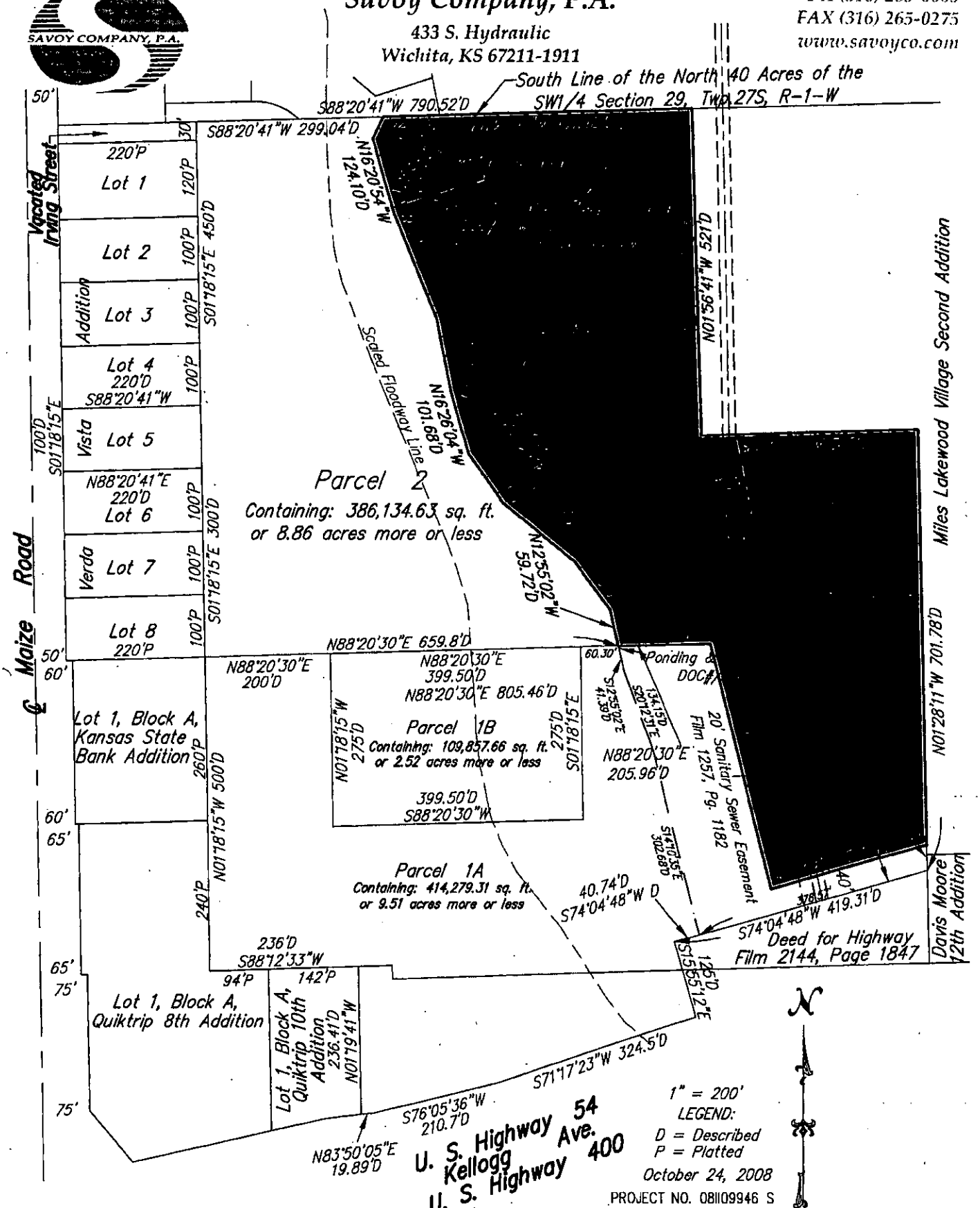

Mark A. Savoy
Land Surveyors
Brian N. Savoy

Savoy Company, P.A.
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PARCEL 3

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CITY OF WICHITA
City Council Meeting
February 23, 2010

TO: Mayor and City Council Members

SUBJECT: Revision of City Council Policy 20

INITIATED BY: City Council

AGENDA: Consent

Recommendation: Amend City Council Policy 20 to permit fundraising during 2010 for the No More Hungry Kids campaign sponsored by the Kansas Food Bank.

Background: City Council Policy 20 prohibits charity drives in municipal facilities, with specific exceptions. Mayor Carl Brewer is a lead fundraiser for the No More Hungry Kids campaign sponsored by the Kansas Food Bank, which was launched in 2009 and promoted during the 2010 State of the City Address. The campaign benefits students at two elementary schools associated with City of Wichita recreation facilities, Stanley and Colvin. City employees will be engaged to support the fundraiser.

Analysis: City Council Policy 20 prohibits the use of municipal facilities, with certain exceptions, for political, commercial, and/or charitable purposes. The City Employees' Friendship Fund is the only organization authorized to solicit funds within any municipal facility. Any other group or person desiring a waiver of City Council Policy 20 must request that the City Council revise the policy to permit the desired activity.

Goal Impact: Not applicable.

Financial Considerations: None.

Legal Considerations: Amending the policy to permit charitable fundraisers other than the internal City Employees' Friendship Fund, may open the door to all other charitable fundraising, as the City cannot engage in content-based selection of acceptable charitable fundraising.

Recommendations/Actions: It is recommended that the City Council amend section 9 of City Council Policy 20 to permit, during 2010, fundraising for the No More Hungry Kids campaign sponsored by the Kansas Food Bank.

Attachments: City Council Policy 20

Policy 20
February 23, 2010

Subject: Policy on Political Campaigning, Political or Commercial Advertising, and Solicitations at Municipal Facilities

It is the policy of the City of Wichita to prohibit the use of municipal facilities, with certain exceptions, for political, charitable, and/or commercial uses. This policy should be interpreted to mean that all political campaigning, distribution of literature, charity drives, commercial and/or political advertising shall be prohibited within municipal facilities except as described below.

Exceptions

1) Century II and Lawrence/Dumont Stadium -- These facilities are available for lease and may be used, for payment of a fee, for most political and commercial activities. Use of the plazas, approaches, and parking lots adjacent to these facilities shall be permitted only with the written authorization of the Director of Community Facilities.

2) Omnisphere and Historical Museum -- No exceptions.

3) Park Facilities -- Use of Park facilities is governed by Chapter 9.04 of the City Code. Certain political and commercial activities are permitted.

4) Airport Property -- Much of the property at Wichita Mid-Continent Airport is available for lease and use of these facilities is governed by Chapter 9.22 of the City Code.

5) Neighborhood Service Centers -- Activities shall be permitted only on approval of the neighborhood governing body for the particular neighborhood in question, such as CPO Councils. Activities shall be limited to official activities of these boards and governing bodies.

6) Health Department -- Only activities officially sanctioned by the Board of Health.

7) City Hall and remote Fire, MTA, Public Works, and Water Department buildings -- Only nonpolitical activities which are sponsored by an official City board or commission or those activities sponsored by a department or division of municipal government are permitted.

Political and employee groups or candidates may distribute literature outside the buildings (or fences in the case of some remote locations) as long as the normal pedestrian or vehicular traffic flow is not interrupted.

The City Commission may authorize the conduct of such informational campaigns on referenda issues of municipal concern as determined necessary by the Commission.

Subject to meeting room availability, the City Manager may authorize the use of City Hall facilities for the purpose of conducting informational or "town" meetings of a nonpolitical nature by officials of federal, state or other local units of government.

8) Library Buildings -- Certain exceptions are granted and use of these facilities is governed by separate Library Board Policy.

9) City Employees' Friendship Fund -- This organization is the only group authorized to solicit funds within any municipal facility.

During the year 2010 only, the Kansas Food Bank may solicit funds for its No More Hungry Kids program, from City employees in municipal facilities.

No others -- including cooking, candy, flower sales, etc. -- are permitted except the sale of merchandise and food through vending machines or the City Hall Cafeteria.

Authorization for Waiver

No Commissioner, City Manager, or other municipal employee may grant a waiver to the provisions of this Policy. Persons or groups desiring a waiver to this Policy should request that the Board of City Commissioners revise this Policy to permit the desired activity.

Policy 20
February 23, 2010

Subject: Policy on Political Campaigning, Political or Commercial Advertising, and Solicitations at Municipal Facilities

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No Commissioner, City Manager, or other municipal employee may grant a waiver to the provisions of this Policy. Persons or groups desiring a waiver to this Policy should request that the Board of City Commissioners revise this Policy to permit the desired activity.

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Cheney Lake Watershed, Inc. - Working Agreement for Water Quality Projects

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Working Agreement.

Background: Cheney Reservoir is a major water supply source for Wichita, currently providing approximately 60-to-70 percent of the City's water. On August 24, 1993, the City Council approved the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices in the watershed above the reservoir that would improve water quality and extend the life of the reservoir. Since then, the City Council has annually approved agreements with the Cheney Lake Watershed Inc. to help implement improvements in the watershed.

Analysis: Cheney Reservoir has two significant pollution problems: sedimentation and phosphates. Sediment from soil washes into the reservoir displacing stored water, and is a major factor in determining the useful life of the reservoir. High phosphate levels can lead to an increase in microscopic plant activity in a lake, which increases taste and odor.

The conversion of cropland to grass has the greatest water quality benefits of all the programs. Perennial grasses can slow the flow of water and filter water that flows over the grassed areas. This program, which takes place in the watershed, offers incentive payments to producers who are willing to convert cropland to grass. The federal Conservation Reserve Program (CRP) pays producers to put cropland into grass, but some land in the watershed has not been able to be funded through that particular program. Landowners who put their land into the CRP receive $40 to $42 per acre per year for participation. Under this program, the producer receives a single payment of $100 per enrolled acre, which is equivalent to about 2.5 years of CRP payments. The producer would be able to graze the grass after it is established, which is not allowed under the CRP program. The producer would agree to a ten-year (10) management plan for the land to maintain grass and to follow established grazing standards. Eligibility for the program requires that the producer certify that the land has been in crops for at least the previous five (5) years prior to seeding it to grass. A target area for this program has been identified, but other sites will be considered on a case-by-case basis.

Financial Considerations: Participation in the program is voluntary, and allocated funds may not be fully utilized in the fiscal year. The cost of this program to the City will not exceed $80,000 in fiscal year 2010, subject to budget restrictions.

Water Utilities 2010 Adopted Operations Budget, Cheney Watershed MOU, has allocated $118,000 in 2010 for projects in the watershed. This is a reduction of $132,000 from the $250,000 budgeted in 2009 from the Capital Improvement Program (CIP) W-500, Cheney Watershed Protection Plan. It has been determined that this item does not qualify as a CIP expense and is provided for in the Water Utilities Operations Budget.

Goal Impact: This agreement will ensure efficient infrastructure by maintaining and optimizing public facilities and assets. Although the work in the project occurs in the watershed above the reservoir, the intent is to improve the water quality and prolong the life of the reservoir.

Legal Considerations: The Working Agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Working Agreement for Water Quality Projects between Cheney Lake Watershed, Inc. and the City of Wichita; and 2) authorize the necessary signatures.

Attachments: Working Agreement for Water Quality Projects between Cheney Lake Watershed, Inc. and the City of Wichita

Working Agreement for Water Quality Projects

Between

Cheney Lake Watershed, Inc.

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Incentive Payments for Conversion of Cropland to Perennial Grass: The conversion of cropland to native grasses has positive water quality benefits. Perennial grasses act to slow and filter any water flowing over the grassed area. As water is slowed, the infiltration rate into the soil is increased.

In order to encourage the conversion of cropland to perennial grass in key areas of the watershed, producers may be eligible to receive incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas that will be eligible for incentive payments.

An incentive payment of $100 per acre will be paid to the landowner upon completion of the seeding and the development of a management plan. Landowners must agree to maintain the grass for ten years from the date of seeding including reseeding at their cost if the initial seeding is not successful. Cost of incentive payments to the City for FY 2010 will not exceed $80,000.00. Landowners will make application for the incentive at the Cheney Lake Watershed office prior to implementation.

Citizens' Management Committee Responsibilities

Citizens' Management Committee will:

1. Review and approve or disapprove applications. Notify producers of approval status.
2. Provide producer with recommendations and specifications for seeding. Verify grass seeding has been completed. Assist producer with development of a conservation/management plan that will establish, maintain, and improve the grass over the life of the contract.
3. Calculate the amount of the incentive payment using established rates within this agreement.
4. Prepare requests to City of Wichita for incentive payments including the name, address and Social Security number of the producer completing the cropland conversion and legal description of the demonstration site.

5. Provide an accounting of the cropland conversion including acres seeded and the grass species used.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

Citizen's Management Committee	11-2-09 Date
City of Wichita	Date

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Reno County Conservation District and the City of Wichita - Memorandum of Understanding

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Memorandum of Understanding (MOU) with the Reno County Conservation District.

Background: Cheney Reservoir is a major water source for Wichita, currently providing approximately 60-to-70 percent of the City's annual water supply. On August 24, 1993, the City Council approved the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices (BMP) in the watershed above the reservoir that would help improve the water quality and extend the life of the reservoir. City Council has approved annual agreements with the Cheney Watershed Citizens' Management Committee and the Reno County Conservation District to help implement improvements in the watershed.

Analysis: It has been determined that Cheney Reservoir has at least two significant pollution problems: sedimentation and phosphates. Sedimentation washes into the reservoir from soil erosion, which can reduce the useful life of the reservoir, and high phosphate levels can lead to an increase in microscopic plant activity such as algae, thereby increasing taste and odor problems in water from the lake.

The Reno County Conservation District has acquired funds from the Water Resources Cost Share Program (WRCS) and the Non-Point Source Pollution Control Fund (NPS). These programs help finance the installation of conservation practices to reduce pollution entering the reservoir. Under these programs, the producer can install BMP that will reduce pollution from their land and then apply for reimbursement up to 70 percent of the cost of those improvements. This MOU would facilitate a means whereby the producer could receive up to 100 percent reimbursement by having the City of Wichita provide up to a 30 percent cost-share for the improvements. The producer would not be eligible for any costs that exceed the county average cost for the improvements.

Administration of the funds will be through the Cheney Watershed Citizens' Management Committee. This committee, composed of landowners and producers in the watershed, administers the Watershed Management Plan and coordinates efforts to promote the installation of BMP in the watershed. The MOU will help facilitate the creation of partnerships between the producers in the watershed and the City that will reduce pollution entering Cheney Reservoir. Other counties in the watershed, Stafford County, Pratt County and Kingman County, have agreed to participate in the program. Projects completed in those counties will be submitted to the City through the Reno County Conservation District.

There are several alternatives the City could pursue in trying to reduce or eliminate pollution in Cheney Reservoir:

1) Participate in this program. The WRCS and NPS programs would provide 70 percent of the funds used to correct pollution problems in the basin, with the remaining 30 percent coming from the City.

2) Wait until the pollution problems are more severe. The City would stand the risk of not having any other funding sources participate in the cleanup of the drainage basin, and additional storage space will be lost to excess sedimentation. Potential customer dissatisfaction with the additional cost of treating the problems would have a detrimental impact.

3) Forego efforts to work in the basin and respond to the water quality in the reservoir. The City Council has approved the use of ozone equipment to help address taste and odor problems, but if conditions in the reservoir deteriorate, the cost of that treatment will increase. This treatment does not remove the sediment coming into the reservoir. To remove sediment after it is in the reservoir and extend its life would require that the sediment be dredged, which is costly and an environmentally destructive process.

Financial Considerations: The maximum WRCS available to a single producer in Reno County in the fiscal year will be limited to $5,000, and the NPS Program limited to $7,500 for livestock waste systems, or $2,000 for household systems. The amount calculated is based on the county average cost, or actual cost, whichever is less. Reno County has WRCS funds available in fiscal year 2010 of $48,438 and the amount of NPS funds available will be $33,956.

Stafford County maximum WRCS available to a single producer will be limited to $10,000 and limited to $5,000 for the NPS Program. The total WRCS funds available in fiscal year 2010 will be $30,892 and NPS funds available will be $21,803.

Pratt County maximum WRCS available to a single producer will be limited to $4,000 and limited to $3,000 for the NPS Program. The total amount of WRCS funds available in fiscal year 2010 will be $29,615 and the amount of NPS funds available will be $19,527.

Kingman County maximum WRCS available to a single producer is limited to $3,500 and the NPS Program is limited to $10,000 for a livestock waste system, or $3,000 for a household waste system. The total WRCS funds available in fiscal year 2010 will be $23,410 and the NPS funds will be $17,164.

These programs are part of a total program in the watershed that started in fiscal year 1995. Other sources of funding include the Environmental Protection Agency, the State Water Plan, the U.S. Department of Agriculture, as well as the City of Wichita. This diversifies the cost of the improvement projects among numerous funding sources.

The cost to the City shall not exceed $37,307 for WRCS projects and $27,735 for NPS projects, for a combined total of $65,042 in fiscal year 2010, subject to budget restrictions. The Water Utility 2010 Adopted Operations Budget, Cheney Watershed MOU, has allocated $118,000 in 2010 for this effort. This is a reduction of $132,000 from the $250,000 budgeted in 2009 from Capital Improvement Project (CIP) W-500, Cheney Watershed Protection Plan. It has been determined that this item is not a CIP expense and is provided for in the Water Utility Operations Budget.

Legal Considerations: The Law Department has reviewed and approved the Memorandum of Understanding as to form.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Memorandum of Understanding between Reno County Conservation District and the City of Wichita; and 2) authorize the necessary signatures.

Attachments: MOU with the Reno County Conservation District

Memorandum of Understanding
Between
Reno County Conservation District
And
The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River which enters Cheney Reservoir. It is the intent of this agreement to provide 100% cost share reimbursement, within the county average costs, to producers within the watershed who install such beneficial practices, and to establish the procedure by which payments to those producers will be processed. Under the Water Resources Cost Share Program (WRCS) and the Non-Point Source Pollution Control Fund (NPS) the producer will implement or install eligible improvements, and then apply for reimbursement for the cost of implementing those improvements. Under this program the producer is eligible to receive state reimbursement up to 70% of the cost. The intention of this agreement is to facilitate a means whereby the producer could receive 100% reimbursement by having the City of Wichita provide up to a 30% cost share payment for the improvements. This MOU will cover cost share practices installed under the FY 2010 program year beginning July 1, 2009 through June 30, 2010.

Reno County Conservation District Responsibilities:

The District:

1. Will maintain official records relative to farms and determine the producer's eligibility to participate in Water Resources Cost Share (WRCS) and Non-Point Source Pollution Control Fund (NPS) and other official records.

2. Will be responsible for maintaining County Average Costs. County Average Costs will be the basis for determining if the practices instituted by the producer were done in a cost effective manner. Expenses incurred by the producer above the County Average Cost will not be eligible for reimbursement.

3. Will provide to the City a breakdown of the units (acres, lineal feet, etc.) performed which will include a copy of the CS4 form showing:

   a. Best Management Practice (BMP) applied.
   b. Total of the units applied or completed.
   c. The County Conservation District County Average Cost for the BMP.
   d. Dollar amount eligible for cost-share.
   e. Dollar amount paid by cost-share fund.

4. Will administer the cost share amount to the producer for WRCS and NPS funds.

a. The maximum WRCS cost share to a single Reno County producer in a fiscal year is limited to $5,000. The maximum NPS cost share to a single Reno County producer is limited to $7,500 for livestock waste systems or $2,000 for household waste systems per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Reno County for FY2010 will be $40,438 for WRCS and $33,956 for the NPS Program.

b. The maximum WRCS cost share to a single Stafford County producer in a fiscal year is limited to $10,000. The maximum NPS cost share to a single Stafford County producer is limited to $5,000 per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Stafford County for FY2010 will be $30,892 for WRCS and $21,803 for NPS.

c. The maximum WRCS cost share to a single Pratt County producer in a fiscal year is limited to $4,000. The maximum NPS cost share to a single Pratt County producer is limited to $3,000 per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Pratt County for FY2010 will be $29,615 for WRCS and $19,527 for the NPS Program.

d. The maximum WRCS cost share to a single Kingman County producer in a fiscal year is limited to $3,500. The maximum NPS cost share to a single Kingman County producer is limited to $10,000 for livestock waste systems or $3,000 for household waste systems per fiscal year. The amount is calculated on the county Average Cost or actual cost for the practice applied, whichever is less. The total amount of cost share funds available in Kingman County for FY2010 will be $23,410 for WRCS and $17,164 for the NPS Program.

5. Will calculate the balance of the cost share to the producer to equal 100% of the County Average Cost. This amount will be calculated as 30% of the County Average Cost, or actual cost whichever amount is less.

6. Will provide the City of Wichita the name, address and Social Security number of the producer receiving payment, the type of practice implemented and legal site description of the improvement.

City of Wichita Responsibilities:

The City:

1. Will maintain official records relative to the cost-share program.

2. Will process payment requests upon receipt of the paperwork from the Reno County Conservation District and send payment to the producer as soon as possible within workload requirements. This payment will provide the balance of the cost share to the producer up to 100% of the County Average Cost. This amount will be calculated as 30% of the County

Average Cost or actual cost, whichever amount is less. Total costs to the City of Wichita shall not exceed $37,307 for FY 2010 WRCS and $27,735 for FY 2010 NPS Program. (Estimated Reno Co. WRCS $12,131; NPS $10,187: Stafford Co. $9,268 WRCS and $6,541 NPS: Pratt Co. $8,885 WRCS $5,858 NPS: Kingman Co. $7,023 WRCS; $5,149 NPS)

3. Will provide an accounting of the program at the request of the Reno County Conservation District.

Both Parties:

1. This agreement can be modified with consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party.

Marion Richard	
Reno County Conservation District	City of Wichita
11-10-09	
Date	Date

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Reno County Conservation District and Citizens' Management Committee - Working Agreement for Water Quality Projects

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Working Agreement for Water Quality Projects.

Background: Cheney Reservoir is a major water supply source for Wichita, currently providing approximately 60 percent to 70 percent of the City's water. On August 24, 1993, the City Council approved the concept of the City assuming part of the cost-share necessary to allow landowners to implement Best Management Practices (BMP) in the watershed above the reservoir that would improve water quality and extend the life of the reservoir. City Council has approved annual agreements with the CMC and the Reno County Conservation District to help implement improvements in the watershed.

Analysis: Cheney Reservoir has two significant pollution problems: sedimentation and phosphates. Sediment washes into the reservoir from soil erosion displacing stored water, and is a major factor in determining the useful life of the reservoir. High phosphate levels can lead to an increase in microscopic plant activity in a lake, which increases taste and odor problems.

A management plan has been approved for the watershed that identifies BMP that will help reduce the pollution entering the reservoir. The Reno County Conservation District and the CMC are responsible for implementing the recommendations in the plan. The proposed agreement promotes the use of BMP and establishes procedures for payments to producers who implement these practices. It addresses funding construction for various demonstration projects, including terraces, grassed waterways, range and pasture seeding, riparian filter strips and concrete drainage structures.

There are incentives to use alternate management techniques such as nutrient management, conservation tillage, crop rotation, brush control, and planned grazing systems. To convert land coming out of the Conservation Reserve Program to rangeland, incentives include installing water systems, fencing and filter strips, and there is also an incentive payment to promote Continuous Sign-up CRP adjacent to streams. The agreement includes an incentive program for small community wastewater treatment plants to make voluntary improvements that improve the quality of their discharge.

Financial Considerations: All of the practices are voluntary, and allocated funds may not be fully utilized in the fiscal year. Most of the practices that this agreement is promoting are also eligible for funding from an EPA 319 Grant that provides up to 60 percent of the cost of a BMP project. The City will match the 40 percent that is not covered by federal funds. The cost of incentive payments to the City will not exceed $10,000 in 2010.

Entities offering cost-share programs for similar practices include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office and the Kansas Rural Center, as well as others. These entities have programs that offer 60-70 percent funding for BMP projects. The cost of matching incentive payments to the City will not exceed $25,000 in 2010.

The conversion of cropland to pasture with perennial grass has positive impacts on water quality; however, installation of fences around sites that were previously enrolled in the CRP is not currently eligible for funding from any other programs. Fencing projects will be eligible for 50-percent funding from the City of Wichita, with the remaining 50 percent paid by the landowner. The cost of the incentive payments to the City will not exceed $75,000.

Incentive payments for small municipalities are limited to a one-time payment of $2,500 per community to match other funding sources, with the total to the City not to exceed $5,000. The incentive payment for the Continuous Sign-up CRP is $200 per acre, and the cost of these incentive payments to the City will not exceed $10,000. The City's share for establishment of Continuous CRP will not exceed $20,000.

The total amount to a single producer in one year under any single program will not exceed $10,000.

Water Utilities 2010 Adopted Operations Budget, Cheney Watershed MOU, allocated $118,000 in 2010 for this effort. This is a reduction of $132,000 from the $250,000 budgeted in 2009 from the Capital Improvement Program (CIP) W-500, Cheney Watershed Protection Plan. It has been determined that this item does not qualify as a CIP expense and is provided for in the Water Utilities Operations Budget. The maximum amount that could be spent in FY 2010 for the City's share of the costs for all practices in this working agreement, subject to budget restrictions, would not exceed $145,000.

Goal Impact: The agreement will ensure efficient infrastructure by maintaining and optimizing public facilities and assets. While the work in the project occurs in the watershed above the reservoir, the intent is to improve the water quality and prolong the life of the reservoir.

Legal Considerations: The Working Agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Working Agreement for Water Quality Projects between the Reno County Conservation District and the Citizens' Management Committee and the City of Wichita; and 2) authorize the necessary signatures.

Attachments: Working Agreement for Water Quality Projects between the Reno County Conservation District and the Citizens' Management Committee and the City of Wichita

Working Agreement for Water Quality Projects

Between

Reno County Conservation District

and

Citizens' Management Committee

and

The City of Wichita

Purpose: The implementation of certain practices in the watershed above Cheney Reservoir has positive impacts on the quality of the water in the North Fork of the Ninnescah River that enters Cheney Reservoir. It is the intent of this agreement to provide an incentive to producers and communities within the watershed to install these beneficial practices.

Section 319 Demonstration Projects. In order to establish demonstrations of desirable practices that protect water quality, the Reno County Conservation District will provide 60% of the county average cost or 60% of the actual cost of installing the demonstration whichever is less using KDHE/EPA Section 319 funds and Wichita funds will provide 40% of the cost. This Working Agreement will also establish the procedure by which payments to those producers will be processed. This working agreement will cover Fiscal Year 2010 (Oct 1, 2009 through Sept 30, 2010).

Demonstration projects may include but will not be limited to the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands. The Citizen's Management Committee will review applications for demonstration funds and make decisions for approval based on available funds and the need for demonstrations of specific practices. Total costs of the incentive payments for the above mentioned demonstrations for FY 10 to the City of Wichita shall not exceed $10,000.

Special Projects: In order to implement a broad spectrum of desirable practices that protect water quality, the Citizen's Management Committee and the Reno County Conservation District will seek additional cost share funds from all available sources. These sources may include the Kansas Alliance for Wetlands and Streams, the Kansas Water Office, the Kansas Rural Center, the US EPA and other entities. When these sources provide 60 to 70% of the county average cost or 60-70% of the actual cost of the project, the City of Wichita will provide up to 40% of the cost not to exceed a total of 100% of the cost. In cases where there is no established county average cost, payment will be based upon reasonable costs as determined by the CMC. This Working Agreement will also establish the procedure by which payments to those producers will be processed. This working agreement will cover Fiscal Year 2010 (Oct 1, 2009 through Sept 30, 2010).

These special projects may include but will not be limited to the following practices: range and pasture seeding, riparian filterstrips, in-field filters, crop rotations/legumes, cross fencing of pastures, alternate watering systems, filterstrips for small livestock feeding operations, stream crossings for livestock, fencing of riparian areas, and the enhancement or creation of wetlands for water quality protection. The Citizen's Management Committee will review applications for cost share funds and make decisions for approval based on available funds and the impact of implementing specific practices. Total costs of payments for the above mentioned projects for FY 10 to the City of Wichita shall not exceed $25,000.

Small Community Wastewater Treatment Systems: There are at least 13 small communities within the Cheney Watershed. Eight of these communities have some type of existing community wastewater treatment system. These communities are Abbyville, Arlington, Haviland, Partridge, Plevna, Preston, Stafford, Sylvia, and Turon. Communities without a community wastewater treatment system are Langdon, Byers, Castleton, and Penalosa.

Many of the community wastewater treatment systems operate near intermittent or perennial streams. In an effort to protect surface water within the watershed, the Cheney Lake Watershed, Inc. will provide incentive payments to small communities that are upgrading a wastewater treatment system.

The proposed treatment system must meet all current requirements of the Kansas Department of Health and Environment and must also be located within contributing portions of the watershed. Byers and Haviland are located in non-contributing portions of the watershed. Each eligible community may apply for a one-time payment of $2,500 to match state or federal funds awarded to upgrade the treatment system. Individual communities may make application for assistance through the Cheney Lake Watershed office. The Citizens Management Committee of the CLW will review and approve applications. Cheney Lake Watershed, Inc. will make direct payments to participating communities upon completion of the upgrades. A maximum of two applications per year may be approved and funded.

Cheney Lake Watershed, Inc. will invoice the City of Wichita for the amount paid to participating communities and the City will reimburse CLW, Inc. in an amount not to exceed $5,000 for FY2010.

Perimeter Fencing: The conversion of cropland to pasture has positive water quality benefits if perennial grasses are established, maintained, and properly grazed. Presently there are no federal or state programs that provide financial assistance for perimeter fences around cropland that is converted to perennial grass. This expense is a major deterrent to conversion of cropland to permanent native grass. Conversion of cropland to grass includes land that has been established in native grass for enrollment in the

Conservation Reserve Program. Upon expiration of a CRP contract, assistance with the installation of perimeter fence would be an incentive to the landowner to develop a grazing system rather than returning the land to crop production.

A maximum of two (2) miles of fence is eligible for cost share. The cost share rate for Wichita funds will be 50% of county average cost or 50% of the actual cost whichever is less. The remaining 50% will be the responsibility of the producer. The county average cost for the Water Resources Cost Share (WRCS) program in the county where the practice is installed will be the basis for determining the funding level.

Producers must agree to abide by a grazing management plan developed with the NRCS Field Office for a 10 year period following the installation of the fence.

Applications will be taken at the County Field Office. The Citizen's Management Committee will review and approve the applications. Payment process will be handled by Cheney Lake Watershed with CMC/RCCD approval of all payment applications before sending to Wichita. Cost of incentive payments to the City for FY 2010 will not exceed $75,000.

The CMC may establish priority areas within the watershed for the use of cost share for perimeter fence.

Incentive Payments for Continuous Sign-up Conservation Reserve Program (CRP): The conversion of small, strategic parcels of cropland to native grasses has positive water quality benefits. The grasses act to slow and filter any water flowing over the grassed area. By locating these small parcels of perennial grasses adjacent to perennial or intermittent streams, nearly the same benefits may be achieved regarding water quality as converting an entire field to grass.

Continuous Sign-up CRP is a program of the USDA, administered by the Farm Service Agency. The Buffer Initiative Program is administered by the State Conservation Commission and local conservation districts. These programs partner to provide annual payments on 10 or 15 year contracts, cost share for establishment, and incentive payments. In order to maximize utilization of these programs in key areas of the watershed, producers may be eligible to receive additional cost share and incentive payments through the Cheney Lake Watershed. The Citizen's Management Committee will establish priority areas and determine CRP practices that will be eligible for Wichita payments.

Continuous CRP provides cost share of up to 90% for the earthwork and seeding of Continuous CRP contracts. The cost share rate for Wichita funds will be up to 30% of county average cost or 30% of the actual cost whichever is less but total cost share funds will not exceed 100% of the actual cost. The cost of payments for establishment of Continuous CRP in FY 2010 will not exceed $20,000 in Wichita funds. Cost share funds will be paid to the owner or operator, whichever incurred the cost of establishment. The Citizen's Management Committee will review and approve the applications for cost share assistance. Payment process will be handled by Cheney Lake Watershed with CMC/RCCD approval of all cost share payments before sending to Wichita.

An incentive payment of $200 per acre will be paid to the landowner or farm operator upon approval of the contract with FSA. Incentive payments will be paid to the owner or operator or split between them in the same manner that the Continuous CRP payments are to be paid. Cost of incentive payments to the City for FY 2010 will not exceed $10,000. Incentive payments will be paid to the owner and/or operator based upon the shares indicated in the CCRP contract for annual payments from USDA. Participants must provide a copy of their CCRP contract to the Cheney Lake Watershed office to receive signup incentive payments.

Reno County Conservation District Responsibilities

The Reno County Conservation District will:

1. Maintain official records relative to farms and other official records.

2. Will provide a breakdown of the units (acres, linear feet, etc.) performed.

a. Best Management Practice (BMP) applied.

b. Total of the units applied or completed.

c. The county average cost for the BMP, if available.

d. Actual cost incurred by owner

3. Calculate the amount of the incentive payment using established rates within this agreement. Total amount to a single producer in one year under any single program will not exceed $10,000.

4. Provide the City of Wichita the name, address and Social Security number of the producer completing the demonstration, the type of practice implemented, and legal description of the demonstration site.

5. Provide an accounting of the program to the City of Wichita.

Citizens' Management Committee will:

1. Establish the sign up period with Reno County Conservation District (RCCD).

2. Review, prioritize, and approve or disapprove applications. Notify producers or communities of approval status.

3. Prepare payment applications and review with RCCD before forwarding to City of Wichita for payment.

4. Make direct payments to small communities for upgrades in wastewater treatment systems and invoice the City of Wichita for reimbursement.

City of Wichita Responsibilities

The City will:

1. Maintain official records relative to the program.

2. Will process payments and send them to the producer after a request for payment is received from the Cheney Lake Watershed office.

3. Provide notification to the Project Office of payments as soon as possible within workload requirements.

4. Provide reimbursement to the Cheney Lake Watershed, Inc. for payments made to small communities for upgrades in wastewater treatment systems.

All Parties:

1. This agreement can be modified with written consent of both parties.

2. This agreement can be terminated with 60 days written notice of either party

Lyle Newby _____ 11-10-09

Reno County Conservation District Date

William Dillitt _____ 11-2-09

Citizen's Management Committee Date

_____ _____

City of Wichita Date

City of Wichita
City Council Meeting
February 23, 2010

TO: Mayor and City Council

SUBJECT: Petition to relocate pipeline for Greenwich Office Park Addition, Home Bank & Trust Company Addition and unplatted tracts (north of 13th, west of Greenwich) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will reimburse Greenwich 13, LLC for the cost of relocating 1,322 lineal feet of gas pipeline located on their property near the 13th Street and Greenwich intersection. Relocation of the pipeline is necessary to allow development of the property.

Financial Considerations: The petition totals $263,250. The funding source is special assessments.

Goal Impact: The project addresses the Efficient Infrastructure goal by relocating a gas pipeline to facilitate the development of commercial sites.

Legal Considerations: State Statutes provide that a petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the petition, adopt the resolution, authorize payment for the cost of the pipeline relocation and authorize the necessary signatures.

Attachments: Map, CIP sheet, petition and resolution.

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First Published in the Wichita Eagle on

RESOLUTION NO. 10-038

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING **1,322 LINEAL FEET OF 6" STEEL GAS MAIN TO BE RELOCATED AND APPURTENANCES CONSTRUCTED (NORTH OF 13TH, WEST OF GREENWICH) 468-84664** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF **RELOCATING 1,322 LINEAL FEET OF 6" STEEL GAS MAIN AND APPURTENANCES CONSTRUCTED (NORTH OF 13TH, WEST OF GREENWICH) 468-84664** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to authorize **1,322 lineal feet of 6" steel gas main to be relocated and appurtenances constructed (north of 13th, west of Greenwich) 468-84664.**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Two Hundred Sixty-Three Thousand Two Hundred Fifty Dollars ($263,250)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

TRACT "A" (KEY NO. C-709-UP)

The east half of the south half of the southeast quarter of section 9, township 27 south, range 2 east, of the sixth principal meridian, City of Wichita, Sedgwick County, Kansas; except the south 18 acres thereof and except, the north 625.59 feet of the west 15 feet of said east half of said south half.

TRACT "B" (KEY NO. C-710-UP)

The west 735 feet of the south 18 acres of the east half of the southeast quarter of section 9, township 27 south, range 2 east, of the sixth principal meridian, City of Wichita, Sedgwick County, Kansas.

TRACT "C" (KEY NO. C-495-UP)

The north 4 acres of the south 18 acres of the east half of the southeast quarter of section 9, township 27 south, range 2 east, of the sixth principal meridian, City of Wichita, Sedgwick County, Kansas; except the west 735 feet thereof.

TRACT "D" (KEY NO. C-60671)

Lot 2, Block 1, Home Bank & Trust Company Addition, an addition to the City of Wichita, Sedgwick County, Kansas.

TRACT "E" (KEY NO. C-6335)

Lot 3, Block 1, Greenwich Office Park Addition, an Addition to the City of Wichita, Sedgwick County, Kansas.

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **square feet** basis:

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication 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 _____ day of _____ 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

Second Reading Ordinances for February 23, 2010 (first read on February 9, 2010)

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

ORDINANCE NO.48-624

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.

Harry and Rock Intersection Improvement. (District II)

ORDINANCE NO. 48-625

An Ordinance amending Ordinance No. 47-671 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 the same.

Harry Street Improvement, between Greenwich and 127th Street East. (District II)

ORDINANCE NO. 48-626

An Ordinance declaring Harry Street, between Greenwich and 127th Street East (472-84884) 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.

Acquisition by Eminent Domain of tracts required for the Heartland Preparedness Center Project. (District I)

ORDINANCE NO. 48-627

An Ordinance providing for the acquisition by Eminent Domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the Heartland Preparedness Center project in the city of Wichita, Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof.