Table of Contents

Agenda 7

IV-1. Public Hearing and Issuance of Taxable Industrial Revenue Bonds, Spirit AeroSystems, Inc. (District III)

Agenda Report No. IV-1 18

Ordinance No. 49-361 20

IV-2. Resolution Considering the Establishment of a Redevelopment District, Tax Increment Financing. (District V)

Agenda Report No. IV-2 24

Resolution No. 12-230 26

IV-3. Improvements to the K-96/Greenwich Interchange. (District II)

Agenda Report No. IV-3 34

Ordinance No.49-362, Map, and CIP Sheet 35

IV-4. Public Hearing on Proposed Assessments for six (6) Paving Projects, four (4) Water Projects, five (5) Sewer Projects, and four (4) Storm Sewer Projects in the January 2013 Bond Sale Series 812. (Districts: II, III, IV, V, VI, and County)

Agenda Report IV-4 and assessments Ordinance Nos. 49-363 to 49-382 37

IV-5. 2011 Fraternal of Police (FOP) Memorandum of Agreement.

Agenda Report No. IV-5 43

Agreement 44

IV-6. 2012 - 2014 Fraternal Order of Police (FOP) Memorandum of Agreement.

Agenda Report No. IV-6 97

Agreement 99

IV-7. Amended Salary Ordinance.

Agenda Report No. IV-7 148

Ordinance No. 49-383 149

IV-8. 2013 Performance Contracts for Cultural Funding.

Agenda Report No. IV-8 162

Botanica FINAL Signed 166

FY13 Arts Council Flat Funding Contract (2) FINAL 189

FY13 Arts Partners Funding Contract FINAL 198

FY13 Botanica Cultural Funding Contract FINAL 207

FY13 Chamber Music at the Barn Funding Contract FINAL 215

FY13 Exploration Place funding contract FINAL 223

FY13 Historical Museum Funding Contract FINAL 231

FY13 Kansas Aviation Museum Funding Contract FINAL 239

FY13 Lyric Opera Funding Contract FINAL 247

FY13 MAAIC Cultural Funding Contract FINAL 255

FY13 Museum of World Treasures Funding Contract FINAL . . . 263
FY13 Music Theater of Wichita Funding Contract FINAL . . . 271
FY13 Orpheum Funding Contract FINAL . . . 279
FY13 Tallgrass Funding Contract FINAL . . . 287
FY13 Ulrich Funding Contract FINAL . . . 295
FY13 WAM Cultural Funding FINAL . . . 303
FY13 Wichita Children's Theatre Funding Contract FINAL . . . 311
FY13 Wichita Grand Opera funding contract FINAL . . . 319
FY13 Wichita Library Foundation funding contract FINAL . . . 327
FY13 Wichita Symphony Orchestra Funding Contract FINAL . . . 335
FY13 Wichita Wind Ensembles Funding Contract FINAL . . . 343
FY13 Zoo Funding Contract FINAL . . . 351
Historical Museum FINAL Signed contract . . . 359
MAAIC FINAL Signed . . . 368
WAM FINAL Signed . . . 376

IV-9. Board of Appeals of Plumbers and Gas Fitters.
Agenda Report No IV-9 . . . 396
Charter Ordinance No. 219 . . . 397
Delineated Ordinance . . . 399

IV-10. Joint Policy Resolution to establish a single Board of Zoning Appeals (BZA) for Wichita and Sedgwick County.
Agenda Report No. IV-10 . . . 401
Ordinance No. 49-385 . . . 402
Delineated Ordinance . . . 404
Joint Sedgwick County-Wichita Ordinance 49-385 Establishing BZA within existing MAPC (BR 9th 10-2-12) . . . 406

IV-11. HPC2012-00208 –Review of the Proposed Demolition of 1305 North Topeka. (District VI)
Agenda Report No. IV-11 . . . 412
HP Board Denial . . . 414
HP Board Minutes . . . 415
Site . . . 418

(6:30 p.m.)
Agenda Report No. IV-12 . . . 419
Ordinance No. 49-387 . . . 421
Service Extension Plan . . . 423
Map . . . 442

(10:30 a.m. or soon thereafter)
Agenda Report No. IV-13 . . . 443
Declarations of Emergency . . . 445
Ordinance No. 49-354 2012A . . . 450

Ordinance No. 49-355 2012B . . . 455
Ordinance No. 49-356 2012C . . . 460
Ordinance No. 49-357 2012D . . . 466
Ordinance No. 49-358 2012E . . . 473
Resolution No. 12-225 2012A . . . 480
Resolution No. 12-226 2012B . . . 508
Resolution No. 12-227 2012C . . . 534
Resolution No. 12-228 2012D . . . 563
Resolution No. 12-229 2012E . . . 605
II-1. Board of Bids.
Board of Bids . . . 644
II-4. Preliminary Estimates.
Preliminary Estimates . . . 685
II-5a. Petitions for Street Paving, Drainage and Water Systems in Emerald Bay Estates 2nd Addition, north of 21st, west of West Street. (District V)
Agenda Report No. II-5a . . . 686
Map . . . 690
Petitions . . . 691
Resolution No. 12-232, 12-233, and 12-234 . . . 701
II-5b. Petition for a Water Distribution in Stoney Pointe Addition, east of Greenwich, south of 29th Street North. (District II)
Agenda Report No. II-5b . . . 707
Resolution No. 12-235 . . . 709
Petition . . . 712
II-5c. Petition for Sanitary Sewer in Krug South Addition, south of 21st Street North, west of 143rd Street East. (District II)
Agenda Report No. II-5c . . . 715
Resolution No. 12-236 . . . 717
Map . . . 721
Petition . . . 722
II-6a. Deeds and Easements.
Deeds and Easements . . . 732
II-7a. Community Events - Wichita Veterans Day Post Parade Event. (District I)
Agenda Report No. II-7a . . . 733
II-7b. Community Events - Girls on the Run 5K. (District II)
Agenda Report No. II-7b . . . 734
II-7c. Community Events - Arthritis Foundation Jingle Bell Run/Walk. (Districts I, IV and VI)
Agenda Report No. II-7c . . . 735
II-7d. Community Events - Frosty 5K. (District VI)
Agenda Report No. II-7d . . . 736
II-7e. Community Events - Waltzing Waters Dedication. (District I)
Agenda Report No. II-7e . . . 737

II-7f. Community Events – Fall Festival and Military Salute. (District I)
Agenda Report No. II-7f 738
II-7g. Community Events - Tallgrass Film Festival Party. (District VI)
Agenda Report No. II-7g 739
II-8a. Pavement Marking Project.
Agenda Report No. II-8a 740
Contract 741
II-8b. Broadway Bridge at 34th Street South-Behnke House. (District III)
Agenda Report No. II-8b 746
(KP)Broadway Bridge-Behnke House 747
II-9a. Supplemental Design Agreement No. 3 for Broadway Bridge at 34th Street South. (District III)
Agenda Report No.II-9 and Agreement 765
II-10a. Change Order No. 4- Lincoln Street Bridge and Dam Improvements. (Districts III and IV)
Agenda Report No. II-10 and Change Order 769
II-12. Repair or Removal of Dangerous and Unsafe Structure. (District IV)
Agenda Report No. II-12 772
OCI Consent Supporting Documents Dangerous and Unsafe Structure 774
Resolution No. 12-238 778
II-13. Contracts and Agreements for September 2012.
Agenda Report No. II-13 779
II-14. Report on Claims for August, 2012.
Agenda Report No. II-14 780
II-15. Payment of Delinquent Taxes - 215 South Market. (District I)
Agenda Report No. II-15 782
II-16. Approval of Offers for the 37th Street North – Broadway to Hydraulic Improvement Project. (Districts VI)
Agenda Report No. II-16 783
Aerial Overview 784
II-17. Quit Claim of Property in the 8900 Block of East Central. (District II)
Agenda Report No. II-17 785
Forest Hills Quit Claim Deed 786
II-18. 2011 Community Services Block Grant Budget Adjustment.
Agenda Report No. II-18 792
CSBG Budget Adjustment 794
CSBG Budget Adjustment 795
II-19. HOME Program: Housing Development Loan Program Funding. (Districts I, III, IV, V, and VI)
Agenda Report No. II-19 799

HDLP - RHS 801
II-20. Regional Fire Training Facility. (District III)
Agenda Report No. II-20 831
Resolution No. 12-237 832
II-21. Agreement for Continuing, Cooperative, and Comprehensive Transportation Planning.
Agenda Report No. II-21 833
Agreement 834
II-22. Bylaws - Wichita Transit Advisory Board.
Agenda Report No. II-22 847
Bylaws - Wichita Transit Advisory Board 848
II-23. 2012 Internet Crimes Against Children (ICAC) Grant and Agreement.
Agenda Report No. II-23 851
Agreement 852
II-24. 2013 and 2014 Kansas Night Time Seat Belt Enforcement Program.
Agenda Report No II-24. 855
Grant 856
II-25. WAMPO Travel Demand Model Update and Metropolitan Transportation Plan Modeling Services Consultant Contract.
Agenda Report No. II-25 863
Supporting Documents 864
II-26. Second Reading Ordinances. (First read October 2, and 9, 2012)
Second Reading Ordinances 911
II-27. *ZON2000-00045 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) generally located south of Central and west of Tyler Road. (District V)
Agenda Report No. II-27 912
II-28. *ZON2012-00022 – City zone change from MF-29 Multi-Family Residential (“MF-29”), GO General Office (“GO”) and LC Limited Commercial (“LC”) to TF-3 Two-Family Residential (“TF-3”); generally located north of 55th Street South on the west side of Seneca Street. (District IV)
Agenda Report No. II-28 914
Ordinance No. 49-386. 916
II-29. *VAC2012-00027 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)
Agenda Report No. II-29 917
II-30. *VAC2012-00029 - Request to vacate a portion of a platted setback; generally located east of Edgemoor Drive, south of Kellogg Street/US 54 and west of Fabrique Drive. (District III)
Agenda Report No. II-30 919

II-31. *VAC2012-00030 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)

Agenda Report No. II-31 921

II-32. *SUB2011-00032 -- Plat of WaterWalk Phase 3 Addition located north of Kellogg, on the west side of Main. (District I)

Agenda Report No. II-32 923

II-33. *SUB2012-00017 -- Plat of Sedgwick County Fire Station No. 36 Addition located on the west side of Oliver, 1500 feet south of 47th Street South. (County)

Agenda Report No. II-33 925

Sedg Co Fire Station No 36 -support docs- SUB2012 17. 927

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. October 16, 2012

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the special meeting on October 9th, 2012

AWARDS AND PROCLAMATIONS

-- Proclamations:

Tallgrass Film Festival Days
Friends of the Libraries Week
Wichita Asian Festival Day

I. PUBLIC AGENDA

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

1. Bennie Lee - Gang violence and guns.

2. Marydel Grayum - Provisions of the City Contract for trash haulers.

3. Tony King Company - Street blockage, turn lane and access from east on Harry Street to George Washington Blvd.

4. Stephen Shell - Thank the City Council for recent road repair expenditures and provide a short description of the positive impact of general road repairs.

5. Shukura Sentwali - Professional conduct of Wichita Police Department and position/recommendation of City of Wichita Staff's on Alan Kalmonoffs recommendations for alternatives to costly incarceration.

II. CONSENT AGENDAS (I THROUGH 33)

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see **"ATTACHMENT 1 – CONSENT AGENDA ITEMS"** for a listing of all Consent Agenda Items.)*

COUNCIL BUSINESS

III. UNFINISHED COUNCIL BUSINESS

None

IV. NEW COUNCIL BUSINESS

1. Public Hearing and Issuance of Taxable Industrial Revenue Bonds, Spirit AeroSystems, Inc. (District III)

   RECOMMENDED ACTION: Close the public hearing and approve first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for Spirit AeroSystems, Inc. in an amount not-to-exceed $59,500,000.

2. Resolution Considering the Establishment of a Redevelopment District, Tax Increment Financing. (District V)

   RECOMMENDED ACTION: Adopt the resolution providing notice of consideration for the establishment of the Maize 54 Redevelopment District and setting a public hearing for November 20, 2012.

3. Improvements to the K-96/Greenwich Interchange. (District II)

   RECOMMENDED ACTION: Approve the design changes, approve the CIP budget, place the ordinance on first reading, authorize the signing of State/Federal agreements as required and authorize the signing of encroachment/utility agreements and easement dedications as required.

4. Public Hearing on Proposed Assessments for six (6) Paving Projects, four (4) Water Projects, five (5) Sewer Projects, and four (4) Storm Sewer Projects in the January 2013 Bond Sale Series 812.
   (Districts: II, III, IV, V, VI, and County)

   RECOMMENDED ACTION: Close the Public Hearing, approve the proposed assessments and place the ordinances on first reading.

5. 2011 Fraternal of Police (FOP) Memorandum of Agreement.

   RECOMMENDED ACTION: Approve the proposed 2011 Memorandum of Agreement between the City and the Fraternal Order of Police (FOP) Lodge #5.

6. 2012 - 2014 Fraternal Order of Police (FOP) Memorandum of Agreement.

   RECOMMENDED ACTION: Approve the proposed 2012 – 2014 Memorandum of Agreement between the City and the Fraternal Order of Police Lodge #5.

7. Amended Salary Ordinance.

   RECOMMENDED ACTION: Approve the ordinance and place on first reading.

8. 2013 Performance Contracts for Cultural Funding.

   RECOMMENDED ACTION: Approve 21 Performance Contracts for Fiscal Year (FY) 2013 Cultural Funding and four (4) Operating Agreements.

9. Board of Appeals of Plumbers and Gas Fitters.

   RECOMMENDED ACTION: Approve the Charter Ordinance and place on first reading.

10. Joint Policy Resolution to establish a single Board of Zoning Appeals (BZA) for Wichita and Sedgwick County.

    RECOMMENDED ACTION: Approve the Joint Policy Resolution, place the ordinance on first reading, and authorize the necessary signatures.

11. HPC2012-00208 –Review of the Proposed Demolition of 1305 North Topeka. (District VI)

    RECOMMENDED ACTION: Overturn the decision of the HPB and approve the demolition, based on a consideration of all relevant factors, and determine that there is "no feasible and prudent alternative to the proposal, and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

(6:30 p.m.)

12. A12-03: Unilateral Annexation of Areas Along 135th Street West, Generally Between 13th Street North and 21st Street North. (District V)

    On August 14, 2012, the City Council adopted a Resolution that established October 16, 2012, 6:30 p.m. at Fire Station #21, 2110 N. 135th St. W., Wichita, Kansas as the date and place for the annexation hearing.

    RECOMMENDED ACTION: Close the public hearing, approve the unilateral annexation, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

(10:30 a.m. or soon thereafter)

13. General Obligation Refunding, Sales Tax Improvement and Sales Tax Refunding Bond Sale.

RECOMMENDED ACTION: (1) Direct the opening and reading of the bids; (2) award the sale of the Bonds subject to approval of the final sizing terms of the Bonds by the City Manager, his designee or the Director of Finance; (3) adopt the Bond Ordinances and Resolutions and authorize the publication of the Bond Ordinances; and (4) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond Note Ordinances on the date of their introduction.

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. NON-CONSENT PLANNING AGENDA

None

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.

Fern Griffith, Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VII. NON-CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

1. Approval of travel expenses for Mayor Carl Brewer to attend the 2012 NLC Nominating Committee Meeting in Washington, DC, October 25-26, 2012.

   RECOMMENDED ACTION: Approve the expenditures.

IX. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 33)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated October 8 and 15, 2012.
   a. Board of Bids.

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

2. Applications for Licenses:

Name	Event	Address
Robert Floyd	Rock Road Gift Shop Inc.	3526 North Rock Road Suite 200
Ernest Doyon	Vegas Video	8323 West Kellogg

   RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2012	(Consumption on Premises)
Teresa A Vasquez	El Patio Inc.**	424 East Central Ave
J. Larry Fugate	Pizza Hut of Southeast Kansas, Inc.**	1708 East Pawnee
J. Larry Fugate	Pizza Hut of Southeast Kansas, Inc.**	2181 North Rock Road
Sunil Patel	Hawthorn Suites**	2405 North Ridge Road

Renewal	2012	(Consumption off Premises)
Rajendra Patel	Jumpstart***	3805 West 21 Street

   **General/Restaurant (need 50% or more gross revenue from sale of food.
   ***Retailer (Grocery stores, convenience stores, etc.)

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

4. Preliminary Estimates:
   a. Preliminary Estimates.

   RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:
   a. Petitions for Street Paving, Drainage and Water Systems in Emerald Bay Estates 2nd Addition, north of 21st, west of West Street. (District V)
   b. Petition for a Water Distribution in Stoney Pointe Addition, east of Greenwich, south of 29th Street North. (District II)
   c. Petition for Sanitary Sewer in Krug South Addition, south of 21st Street North, west of 143rd Street East. (District II)

   RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

6. Deeds and Easements:
   a. Deeds and Easements.

   RECOMMENDED ACTION: Accept documents.

7. Consideration of Street Closures/Uses.
   a. Community Events - Wichita Veterans Day Post Parade Event. (District I)
   b. Community Events - Girls on the Run 5K. (District II)
   c. Community Events - Arthritis Foundation Jingle Bell Run/Walk. (Districts I, IV and VI)
   d. Community Events - Frosty 5K. (District VI)
   e. Community Events - Waltzing Waters Dedication. (District I)
   f. Community Events – Fall Festival and Military Salute. (District I)
   g. Community Events - Tallgrass Film Festival Party. (District VI)

   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) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

8. Agreements/Contracts:
   a. Pavement Marking Project.
   b. Broadway Bridge at 34th Street South-Behnke House. (District III)

   RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

9. Design Services Agreement:
   a. Supplemental Design Agreement No. 3 for Broadway Bridge at 34th Street South. (District III)

   RECOMMENDED ACTION: Approve Agreements/Contracts; authorize the necessary signatures.

10. Change Order:
    a. Change Order No. 4- Lincoln Street Bridge and Dam Improvements. (Districts III and IV)

    RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

11. Minutes of Advisory Boards/Commissions
    Board of Code Standards and Appeals, September 10, 2012
    Wichita Airport Advisory Board, September 10, 2012
    Joint Investment Committee, September 6, 2012
    Police and Fire Retirement System, August 22, 2012

    RECOMMENDED ACTION: Receive and file.

12. Repair or Removal of Dangerous and Unsafe Structures. (District IV)

Property Address	Council District
a. 1818 South Shefford Circle	IV

RECOMMENDED ACTION: Adopt the attached resolutions to schedule public hearings before the City Council on December 4, 2012 at 09:30 a.m. or as soon as possible thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

13. Contracts and Agreements for September 2012.

RECOMMENDED ACTION: Receive and file.

14. Report on Claims for August, 2012.

RECOMMENDED ACTION: Receive and file

15. Payment of Delinquent Taxes - 215 South Market. (District I)

RECOMMENDED ACTION: Authorize the payment of all outstanding ad valorem taxes, interest and penalties relating to property located at 215 South Market.

16. Approval of Offers for the 37th Street North – Broadway to Hydraulic Improvement Project. (Districts VI)

RECOMMENDED ACTION: 1) Approve the offers and; 2) Authorize the necessary signatures.

17. Quit Claim of Property in the 8900 Block of East Central. (District II)

RECOMMENDED ACTION: Approve the quit claim deeds and authorize all necessary signatures.

18. 2011 Community Services Block Grant Budget Adjustment.

RECOMMENDED ACTION: Approve the 2011 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

19. HOME Program: Housing Development Loan Program Funding. (Districts I, III, IV, V, and VI)

RECOMMENDED ACTION: Approve the Housing Development Loan Program funding allocation and authorize the necessary signatures

20. Regional Fire Training Facility. (District III)

RECOMMENDED ACTION: Adopt the amending resolution, and authorize the necessary signatures.

21. Agreement for Continuing, Cooperative, and Comprehensive Transportation Planning.

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

22. Bylaws - Wichita Transit Advisory Board.

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

23. Internet Crimes Against Children (ICAC) Grant and Agreement.

    RECOMMENDED ACTION: Approve the Internet Crimes Against Children (ICAC) Grant in the amount of $107,076 and the Agreement between the City of Wichita and Sedgwick County and authorize the necessary signatures.

24. 2013 and 2014 Kansas Night Time Seat Belt Enforcement Program.

    RECOMMENDED ACTION: Review and ratify the grant application.

25. WAMPO Travel Demand Model Update and Metropolitan Transportation Plan Modeling Services Consultant Contract.

    RECOMMENDED ACTION: Approve the selection of Cambridge Systematics to complete the Travel Demand Model Update and Metropolitan Transportation Plan Modeling Services project and authorize the necessary signatures to execute the contract as the fiscal agent for the WAMPO.

26. Second Reading Ordinances: (First Read October 2 and 9, 2012)
    a. Second Reading Ordinances.

    RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

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.

27. *ZON2000-00045 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-Family Residential (“SF-5”) to LC Limited Commercial (“LC”) generally located south of Central and west of Tyler Road. (District V)

    RECOMMENDED ACTION: Approve a one-year extension of time to complete platting by October 16, 2013.

28. *ZON2012-00022 – City zone change from MF-29 Multi-Family Residential ("MF-29"), GO General Office ("GO") and LC Limited Commercial ("LC") to TF-3 Two-Family Residential ("TF-3"); generally located north of 55th Street South on the west side of Seneca Street. (District IV)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change, subject to replatting within a year of approval by the governing body; instruct the Planning Department to forward the ordinance for first reading when the replatting is completed (simple majority required).

29. *VAC2012-00027 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)

    RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

30. *VAC2012-00029 - Request to vacate a portion of a platted setback; generally located east of Edgemoor Drive, south of Kellogg Street/US 54 and west of Fabrique Drive. (District III)

    RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

31. *VAC2012-00030 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)

    RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

32. *SUB2011-00032 -- Plat of WaterWalk Phase 3 Addition located north of Kellogg, on the west side of Main. (District I)

    RECOMMENDED ACTION: Approve the plat and authorize the necessary signatures for approval and ownership of the plat.

33. *SUB2012-00017 -- Plat of Sedgwick County Fire Station No. 36 Addition located on the west side of Oliver, 1500 feet south of 47th Street South. (County)

    RECOMMENDED ACTION: Approve the documents and plat and authorize the necessary signatures.

II. CONSENT HOUSING AGENDA ITEMS

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.

Fern Griffith, Housing Member is also seated with the City Council.

None

II. CONSENT AIRPORT AGENDA ITEMS

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.

34. *Board of Bids WAA – **NONE**.

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

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Public Hearing and Issuance of Taxable Industrial Revenue Bonds (Spirit AeroSystems, Inc.) (District III)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendations: Close the public hearing and place the bond ordinance on first reading.

Background: On May 17, 2005, the City Council approved a five-year letter of intent for issuance of up to $1,000,000,000 in Industrial Revenue Bonds to finance facilities for the benefit of Mid-Western Aircraft Systems, Inc. (now Spirit AeroSystems, Inc. "Spirit"), at 3801 S. Oliver in southeast Wichita. The City Council also approved a ten-year tax abatement on all bond financed property and authorization for City staff to apply for sales tax exemption on the acquisition of the financed assets, all subject to the incentive recapture provisions of the City's current public incentives policy. On May 4, 2010, the City Council approved extension of the remaining amount of the letter of intent, approximately $620,500,000. Spirit now requests the issuance of an additional series of bonds in the aggregate principal amount of $59,500,000.

Analysis: Bond proceeds will be used to finance the ongoing modernization and expansion of the commercial aircraft manufacturing facilities Spirit acquired from The Boeing Company in June of 2005. Ongoing modernization and expansion of the facilities will enable Spirit AeroSystems, Inc. to continue existing commercial aircraft part production programs and services, to take advantage of new technology and to compete for new aircraft part manufacturing business. Spirit is continuing to manufacture major parts systems for a variety of Boeing jetliners, including the Boeing 787. In addition, Spirit has expanded its operations and customer base by winning work for other makers of commercial aircraft, as well as corporate and military aircraft. Bond proceeds in this year's bond issue will also finance repairs to buildings damaged by the April 14, 2012 tornado.

Spirit AeroSystems, Inc. intends to purchase the bonds itself, through direct placement, and the bonds will not be reoffered for sale to the public. Kutak Rock LLP of Omaha, Nebraska, engaged by Spirit, will serve as Bond Counsel in the transaction. Spirit has agreed to comply with all conditions of the letter of intent.

Financial Considerations: Spirit agrees to pay all costs of issuing the bonds and agrees to pay the City's $2,500 annual IRB administrative fee for the term of the bonds. The bond financed property will be eligible for sales tax exemption and property tax exemption for a term of ten years, subject to fulfillment of the conditions of the City's public incentives policy. The ten year tax exemption on bond financed property begins the first year following the issuance of the bonds that financed the property.

Under the City of Wichita/Sedgwick County Economic Development Incentives Policy, Spirit qualifies for a 100% property tax abatement for an initial five year period on all bond-financed real property, plus a second five years subject to City Council approval.

Wichita State University Center for Economic Development and Business Research performed a cost-benefit analysis using the Derby school district. The resulting benefit-cost ratios are:

City of Wichita	1.98 to one
General Fund	1.78 to one
Debt Service	2.34 to one
Sedgwick County	1.54 to one
U.S.D. 260	1.00 to one
State of Kansas	28.23 to one

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

Legal Considerations: The City's Law Department has reviewed and approved the Ordinance as to form and will review and approve all final documents prior to issuance of the bonds.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve the first reading of the Bond Ordinance authorizing the execution and delivery of documents for the issuance of Taxable Industrial Revenue Bonds for Spirit AeroSystems, Inc. in an amount not-to-exceed $59,500,000.

Attachment: Bond Ordinance

ORDINANCE NO. 49-361

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN SPIRIT AEROSYSTEMS, INC. AND THE CITY OF WICHITA, KANSAS; APPROVING AND AUTHORIZING THE EXECUTION OF AN INDENTURE OF TRUST BETWEEN SAID CITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.; PLEDGING CERTAIN PAYMENTS UNDER SAID LEASE AGREEMENT AND MONEYS AND SECURITIES HELD BY THE TRUSTEE UNDER THE TERMS OF SAID INDENTURE OF TRUST; AUTHORIZING AND DIRECTING THE ISSUANCE OF INDUSTRIAL REVENUE BONDS SERIES ____, 2012 (SPIRIT AEROSYSTEMS, INC. PROJECT) OF SAID CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED $59,500,000 FOR THE PURPOSE OF PROVIDING FUNDS FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF CERTAIN INDUSTRIAL AND MANUFACTURING FACILITIES OF SPIRIT AEROSYSTEMS, INC., A DELAWARE CORPORATION, IN SEDGWICK COUNTY, KANSAS; DESIGNATING THE TRUSTEE AND THE PAYING AGENT FOR SAID BONDS; AUTHORIZING THE SALE OF SAID BONDS AND THE EXECUTION OF A BOND PURCHASE AGREEMENT THEREFOR; APPROVING AND AUTHORIZING THE EXECUTION OF AN ADMINISTRATIVE SERVICE FEE AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN RELATED INSTRUMENTS;

WHEREAS, the City of Wichita, Kansas (the "City") desires to promote and stimulate general economic welfare and prosperity and provide greater employment opportunities within the City and its environs and thereby to further promote, stimulate and develop the economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1740 et seq., as amended, said City is authorized to issue industrial revenue bonds of said City, and it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that industrial revenue bonds be issued for the purpose of providing funds for the acquisition, construction, reconstruction and improvement of certain industrial and manufacturing facilities of Spirit AeroSystems, Inc., a Delaware corporation (the "Company"), located within the environs of the City in Sedgwick County, Kansas, which facilities include the Project as defined in the Lease Agreement and the Indenture of Trust herein referred to approved and authorized; and

WHEREAS, the Company will acquire a leasehold interest in the Project from the City pursuant to said Lease Agreement; and

WHEREAS, by Letter of Intent dated May 17, 2005, as extended on May 4, 2010, the City has authorized the undertaking of an industrial revenue bond financing for the Project; and

WHEREAS, it is hereby found and determined that the purpose of said Letter of Intent, as so extended (the "Letter of Intent"), is to extend until May 17, 2015 the term specified in each Section 12.11(e) of those certain Lease Agreements dated as of December 1, 2005, December 1, 2006, December 1, 2008 and December 1, 2009 between the City and the Company and to be specified in those lease agreements entered into on or after May 4, 2010 by the City and the Company; and

WHEREAS, said Indenture of Trust and this Ordinance provide for the authorization and issuance of a series of such bonds;

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

Section 1. Enabling Declaration. The City Council, as governing body of the City of Wichita, Kansas, has determined and hereby declares that the Project, if in being, would promote the welfare of the City.

Section 2. Application of Letter of Intent Extension to Lease Agreements; Approval and Authorization of Lease Agreement. The City does hereby approve and confirm that the term of the Letter of Intent specified in each Section 12.11(e) of those certain Lease Agreements dated as of December 1, 2005, December 1, 2006, December 1, 2008 and December 1, 2009 and between the City and the Company, and specified or to be specified in those lease agreements, including the Lease Agreement dated as of December 1, 2011 and the Lease Agreement to be dated as of December 1, 2012, between the City, as lessor, and the Company, as lessee (the "Lease"), entered into by the City and the Company on or after May 4, 2010 shall extend until May 17, 2015. The Lease be and the same is in all respects hereby approved, authorized and confirmed, and Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, and the City Clerk or Deputy City Clerk be and they are hereby authorized and directed to execute, attest and deliver the Lease for and on behalf of the City.

Section 3. Approval and Authorization of Indenture of Trust, Designation of Trustee and Paying Agent. The Indenture of Trust, to be dated as of December 1, 2012 (the "Indenture"), between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), be and the same is in all respects hereby approved, authorized and confirmed, and said Trustee is hereby designated to act as such thereunder, and the Trustee is hereby designated to act as Paying Agent for the not to exceed $59,500,000 principal amount of City of Wichita, Kansas Industrial Revenue Bonds Series ____, 2012 (Spirit AeroSystems, Inc. Project), authorized by this Ordinance and the Indenture and Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, and the City Clerk or Deputy City Clerk be and they are hereby authorized and directed to execute, attest and deliver the Indenture for and on behalf of said City. As provided in the Indenture, the City assigns and pledges to the Trustee certain payments under the Lease

and moneys and securities held by the Trustee under the terms of the Indenture as security for such Bonds.

Section 4. Approval, Authorization and Issuance of Bonds. There is hereby created and established an issue of bonds of the City to be known and designated as "City of Wichita, Kansas Industrial Revenue Bonds Series ____, 2012 (Spirit AeroSystems, Inc. Project)" (the "Bonds"), which shall consist of not to exceed $59,500,000 principal amount of Bonds, to be dated as of their date of first authentication and delivery, to mature on January 1, 2023, to bear interest at the rate of 5.75% per annum, payable semiannually on January 1 and July 1 in each year, commencing July 1, 2013, and to be subject to redemption at the principal amount thereof plus accrued interest thereon to the redemption date as further provided in the Indenture and shall be in principal amount, form and content and include such other details as specified herein and in the Indenture. The issuance of the Bonds is in all respects hereby approved, authorized and confirmed, and Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, and the City Clerk or Deputy City Clerk are authorized and directed to execute and seal the Bonds pursuant to the Indenture, and the Trustee is hereby authorized and directed to authenticate the Bonds, to deliver the same to the purchaser designated in the Bond Purchase Agreement hereinafter referred to for and on behalf of the City upon receipt of the purchase price therefor and to deposit the proceeds thereof with itself as trustee, in the manner provided for by this Ordinance and the Indenture. The Bonds, together with the interest thereon, are not general obligations of the City, but are special obligations payable (except to the extent paid out of moneys attributable to the proceeds derived from the sale of the Bonds or to the income from the temporary investment thereof) solely from the lease payments under the Lease, and the Bond Fund and other moneys held by the Trustee, as provided in the Indenture. Neither the credit nor the taxing power of the State of Kansas or of any political subdivision of such State is pledged to the payment of the principal of the Bonds and premium, if any, and interest thereon or other costs incident thereto.

Section 5. Authorization of the Sale of the Bonds. The sale of the Bonds pursuant to the terms of the Bond Purchase Agreement, at a purchase price of 100% of the principal amount thereof plus accrued interest from the date of authentication to the date of delivery of and payment for the Bonds, is hereby approved, authorized and confirmed. Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, is hereby authorized and directed to execute the Bond Purchase Agreement, dated as of December 1, 2012, covering the sale of the Bonds.

Section 6. Approval and Authorization of Administrative Service Fee Agreement. The Administrative Service Fee Agreement, to be dated as of December 1, 2012, between the City and the Company, (the "Fee Agreement"), be and the same is in all respects hereby approved, authorized and confirmed, and Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, and the City Clerk or Deputy City Clerk be and they are hereby authorized and directed to execute and deliver the Fee Agreement, for and on behalf of the City.

Section 7. Authority To Correct Errors, Etc. Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, the City Clerk and Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed necessary to correct errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 8. Severability. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. It shall not be necessary for the Lease, the Indenture, the Fee Agreement or the Bond Purchase Agreement to be published in the official City paper, but all such documents shall be on file in the office of the City Clerk and shall be available for inspection by any interested party.

Section 9. Further Authority. Janet Miller (or in her absence, the next person in order of succession pursuant to the Order of Succession Resolution of the City), as Vice Mayor, the City Clerk, Deputy City Clerk, City Treasurer, City Attorney and other City officials are hereby authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents or other papers and to perform all other acts as they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Section 10. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication in the official City paper.

PASSED by the City Council this 6th day of November, 2012.

Signed by the _____.

_____
Janet Miller
Vice Mayor

Attest:

_____
City Clerk

[SEAL]

Approved as to Form:

_____
Gary E. Rebenstorf
City Attorney

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Resolution Considering the Establishment of a Redevelopment District (Tax Increment Financing) (District V)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Adopt the resolution setting a public hearing for November 20, 2012.

Background: Maize 54, LLC, an investment group led by Jay Maxwell is planning an entertainment and retail development for the area immediately north of West Kellogg on the east side of Maize Road. On September 14, 2010, the City Council took action to establish a Community Improvement District for the Maize 54 development project. The developer is now requesting additional assistance from the City through the use of tax increment financing ("TIF"). Procedures for the use of TIF include establishment of a redevelopment district following a public hearing on the matter. At this time, the City Council is being asked to adopt a resolution setting the public hearing for November 20, 2012 to consider establishing the TIF district.

Analysis: The area proposed for redevelopment is shown on Exhibit 'A' to the attached resolution. The majority of the area is northeast of Kellogg and Maize Road, consisting of approximately 86.5 acres. This is an area that qualifies as a "blighted area" under the state TIF statutes because a majority of the land within the proposed TIF district is within a 100 year flood plain.

Maize 54, LLC plans to create a mixed use development anchored by the Bowllagio Bowling and Family Entertainment Center and containing retail, hotel, restaurants and office space. Tax increment financing would be used to pay for eligible redevelopment costs including infrastructure improvements along Kellogg and Maize Road, utility extensions and land acquisition and drainage improvements that will remove the development site from the flood plain.

Tax increment financing allows the increased tax revenue that results from the redevelopment of property to be used to pay for eligible costs in the redevelopment project, including land acquisition, site preparation and infrastructure. Once a TIF district is established and a redevelopment project plan is adopted by the City Council, the increment of increased tax revenue is set aside by the County Treasurer to be used by the City to repay bonds issued to finance certain improvements that are specified in the redevelopment project plan. After all the eligible costs have been paid, the property tax increment distribution to the TIF will be terminated and all tax revenue will be distributed to the City, County, School District and other applicable taxing jurisdictions.

The first step in establishing the tax increment finance district is the adoption of a resolution which states that the City Council is considering the establishment of the TIF district and sets the date for a public hearing on the matter. The earliest date a public hearing may be held for this project is November 20, 2012. After closing the public hearing, the City Council may adopt an ordinance establishing the

redevelopment district. The final step in the approval process involves the adoption of a detailed project plan and approval of a development agreement by the City Council.

The initiating resolution now before the City Council for adoption directs the City Clerk to publish the resolution in the City's official newspaper and to mail copies, by certified mail, to the owners and occupants of all property located within the district and to the Board of County Commissioners and the Board of Education. The resolution also includes a map of the proposed district and a proposed district plan identifying potential redevelopment project areas and a general description of buildings and facilities to be constructed or improved.

District Plan: The overall plan for redeveloping the Maize 54 Redevelopment District is set forth in the District Plan which is attached as Exhibit B to the attached Resolution. The plan calls for development of the district in multiple phases, with each phase having a separate project area and project plan which must be adopted by the City Council by a 2/3 majority vote. The land uses for the overall project include retail, restaurant, hotel, healthcare and office developments. The use of tax increment financing includes all TIF-eligible costs, including without limitation land acquisition, site preparation and infrastructure improvements. The district plan limits the incremental revenue that can be used to pay TIF project costs to 65% of the TIF revenues generated. The balance will be distributed to the taxing authorities.

Financial Considerations: The cost of mailing the Resolution to all owners and occupants of property located within the proposed district will be charged to the Economic Development Fund and will be ultimately financed with TIF revenues.

Goal Impact: Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted areas, distressed and declining areas, are needed to avoid economic stagnation.

Legal Considerations: State law allows cities to establish redevelopment districts in areas that are considered blighted areas based on findings that a majority of the land is within a 100 year flood plain. Such findings shall be set forth in the ordinance presented to the City Council for adoption following the public hearing on November 20, 2012. During a 30-day period following the public hearing, the Sedgwick County Board of County Commissioners and the USD 265 (Goddard) Board of Education will have the right to veto the establishment of the redevelopment district.

Recommendations/Actions: It is recommended that the City Council adopt the resolution providing notice of consideration for the establishment of the Maize 54 Redevelopment District and setting a public hearing for November 20, 2012.

Attachments: Resolution and Exhibits

Resolution No. 12-230 028001

A RESOLUTION
STATING THE CITY OF WICHITA IS CONSIDERING THE
ESTABLISHMENT OF A REDEVELOPMENT DISTRICT
FOR THE MAIZE 54 REDEVELOPMENT DISTRICT
UNDER AUTHORITY OF K.S.A. 12-1770 ET SEQ.

WHEREAS, the provisions of K.S.A. 12-1770, et seq., as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the City of Wichita (the "City") is considering the establishment of a redevelopment district in a blighted area to be known as the "Maize 54 Redevelopment District" to promote the general and economic welfare of the City;

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

Section 1. That the City is considering the establishment of a redevelopment district to be known as the Maize 54 Redevelopment District.

Section 2. That the City will hold a public hearing to consider the establishment of such redevelopment district on November 20, 2012 at 9:30 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

Section 3. That a legal description of the proposed Maize 54 Redevelopment District is set forth in **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Maize 54 Redevelopment District is attached hereto as **Exhibit B** and incorporated herein by reference

Section 4. That the redevelopment district plan identifying proposed redevelopment project areas along with a general description of the buildings, facilities, and improvements that are proposed to be constructed or improved in the redevelopment district is attached hereto as **Exhibit C** and incorporated herein by reference.

Section 5. That a description and map of the proposed redevelopment district shall be available for inspection by the public in the City Clerk's Office, City Hall, 13th Floor, 455 North Main Street, Wichita, Kansas, from 8:00 a.m. until 5:00 p.m., Monday through Friday, from the 16th of October, 2012 until November 20, 2012.

Section 6. That the Governing Body will consider making findings necessary for the establishment of a redevelopment district at the public hearing set to be heard herein.

Section 7. That a copy of this resolution shall be delivered to the Sedgwick County Board of County Commissioners, and to the Board of Education of Unified School District No. 265. Copies of this resolution shall also be mailed by certified mail, return receipt requested, to each owner and occupant of land within the proposed redevelopment district not more than ten (10) days following the date of the adoption of this resolution.

Section 8. That this resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the proposed redevelopment district in sufficient detail to advise the reader of the particular land proposed to be included within the redevelopment district shall be published with the resolution.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, this 16th, day of October, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

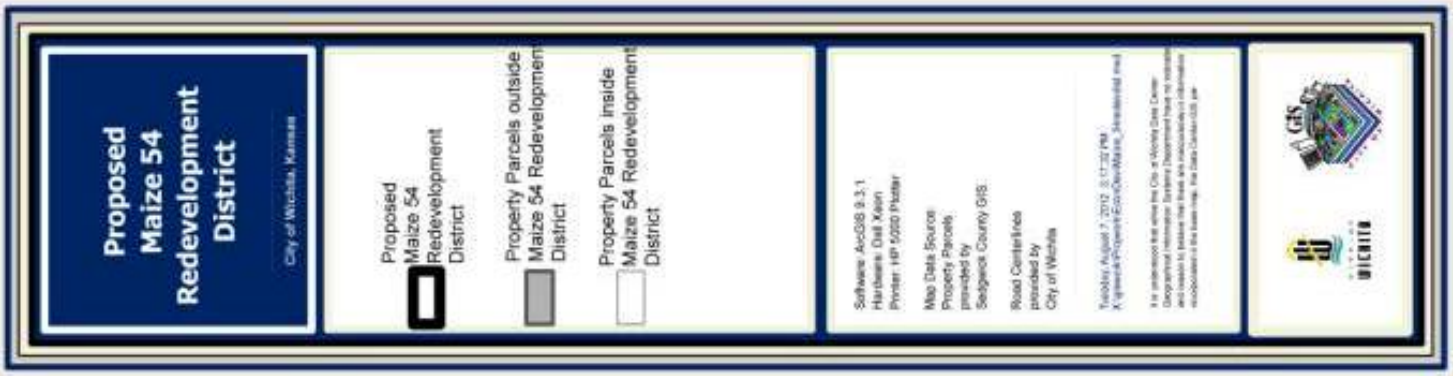
_____
Gary E. Rebenstorf, City Attorney

EXHIBIT A

LEGAL DESCRIPTION

Beginning at a point of intersection with the south right of way line of Hayden Street and the west right of way line of Maize Road; thence east to the east right of way line of Maize Road; thence south on the said east right of way line of Maize Road to a point of intersection with the north line of the SW ¼, Section 29, Township 27 South, Range 1 West of the 6th P.M.; thence east on said north line of said SW ¼ for a distance of 1,488.72 feet to a point of intersection with the east line of a tract of land descried in Condemnation Case 06CV-3456; thence south on the east line of said Condemnation Case 06CV-3456 to a point of intersection with the north line of Miles Lakewood Village Second Addition, Wichita, Sedgwick County, Kansas; thence west on said north line of said Miles Lakewood Village Second Addition to the northwest corner of said Addition; thence south on the west line of said Miles Lakewood Village Second Addition to a southwest corner of said Addition; thence east on a south line of said Miles Lakewood Village Second Addition to a corner of said Addition; thence south on a west line of said Miles Lakewood Village Second Addition to a point of intersection with a northeast corner of Maize 54 Addition, Wichita, Sedgwick County, Kansas; thence south on the east line of said Maize 54 Addition to a point of intersection with the north right of way line of Kellogg Drive; thence southwesterly on a south line of said Maize 54 Addition 419.31 feet to a corner in said Maize 54 Addition; thence south on an east line of said Maize 54 Addition 125 feet to a corner of said Maize 54 Addition, said corner being on the north right of way line of Kellogg Drive; thence continuing south for a distance of 95 feet more or less to the south right of way line for Kellogg Drive; thence west on said south right of way line of Kellogg Drive to the a point of intersection with the west right of way line extended of Maize Road; thence north on the west right of way of Maize Road to point lying 770.16 feet south of the northeast corner of the SE 1/4, Section 30, Township 27 South, Range 1 West of the 6th P.M.; thence west for a distance of 380 feet; thence northwesterly to a point lying 670.14 feet south of and 474 feet west of said northeast corner of said SE ¼, Section 30, Township 27 South, Range 1 West; thence west 526 feet; thence north 335.08 feet; thence west 290 feet to the east line of Lark Lane; thence north along the east line of Lark Lane to a point of intersection with the south right of way line of Hidden Valley Road; thence east on the south right of way line of Hidden Valley Road to a point of intersection with the west right of way line of Maize Road; thence north on the west right of way line of Maize Road to the point of beginning.

EXHIBIT "B"


Proposed Maize 54 Redevelopment District
City of Wichita, Kansas
Proposed Maize 54 Redevelopment District
Property Parcels outside Maize 54 Redevelopment District
Property Parcels inside Maize 54 Redevelopment District
Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter
Map Data Source:
Property Parcels
provided by
Sedgwick County GIS
Road Centerlines
provided by
City of Wichita
Tuesday, August 7, 2012 2:17:22 PM
GIS
WICHITA

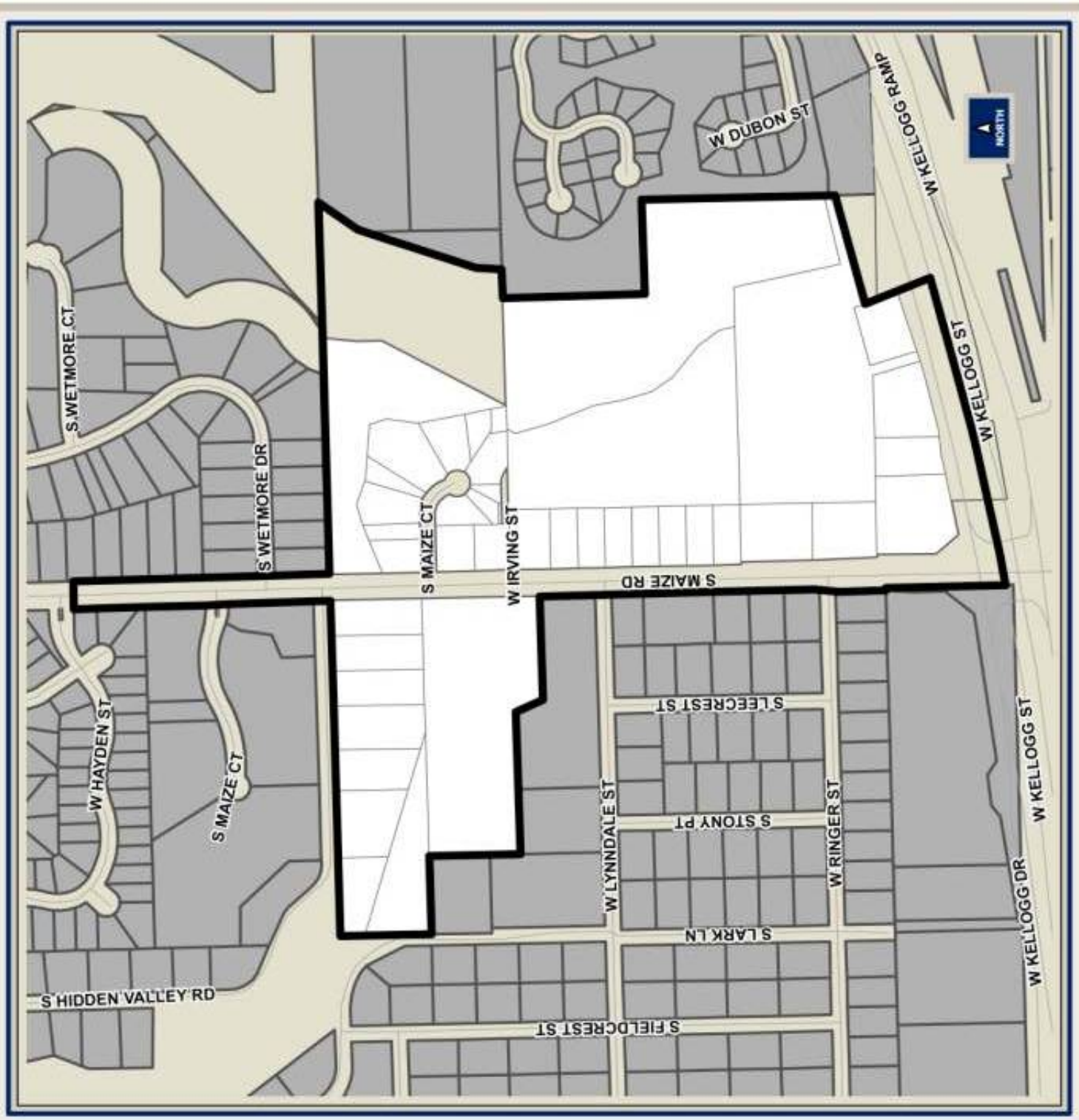

S WETMORE CT
S WETMORE DR
W HAYDEN ST
S MAIZE CT
S HIDDEN VALLEY RD
S MAIZE CT
W IRVING ST
S MAIZE RD
W DUBON ST
W KELLOGG RAMP
W KELLOGG ST
NORTH
S LEECREST ST
S STONY PT
W LYNNDALE ST
W RINGER ST
S LARK LN
S FIELDCREST ST
W KELLOGG DR
W KELLOGG ST

EXHIBIT C

REDEVELOPMENT DISTRICT PLAN FOR THE REDEVELOPMENT OF THE MAIZE 54 REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING

October 16, 2012

SECTION 1: PURPOSE

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

SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

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

SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES

The property within the proposed district is generally located North of Kellogg Street and east of Maize Road; it includes approximately 86.5 acres, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The legal description of the proposed district is attached hereto and incorporated herein as Exhibit 1.

SECTION 4: BUILDINGS AND FACILITIES

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

Under the state statutes (K.S.A. 12-1770, et. seq.) an "eligible area" for tax increment financing may include any area defined as a blighted area. The statutory definition of

"blighted area" includes any area in which a majority of the property lies within the 100-year floodplain (KSA 12-1770(c) (3)). It has been determined that the majority of the proposed Project Area property lies within the 100-year floodplain following an engineer's review of the flood plain map.

SECTION 5: REDEVELOPMENT AND PROJECT AREAS

It is anticipated that property within district will be redeveloped in multiple phases and each phase will be designated as a separate "project area" under a separate project plan, which must be adopted by the City Council by a 2/3 majority vote for each phase before the expenditure of any tax increment financing funds. The Phasing of the project areas is notionally depicted in Exhibit 2 attached hereto. The plans for redevelopment of the district generally call for development of all 86.5 acres into a mixed use development anchored by the Bowllagio, a family entertainment center with bowling as the primary attraction, coupled with a restaurant and bar operation and state-of-the-art gaming attractions. In addition to the Bowllagio, the development is anticipated to include hotels, restaurants and retail shops.

In addition to above stated uses of tax increment financing, the City will stipulate in the project plans for each phase that an amount equal to sixty-five percent (65%) of the tax increment realized from taxpayers in the district shall be allocated by the County Treasurer to the City to finance authorized project costs and the remainder shall be allocated and paid to taxing districts in the same manner as other ad valorem taxes. Tax increment financing may not be used to pay for construction of any buildings owned by or leased to a private, nongovernmental entity.

SECTION 6: CONCLUSION

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

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

EXHIBIT 1

LEGAL DESCRIPTION

Beginning at a point of intersection with the south right of way line of Hayden Street and the west right of way line of Maize Road; thence east to the east right of way line of Maize Road; thence south on the said east right of way line of Maize Road to a point of intersection with the north line of the SW ¼, Section 29, Township 27 South, Range 1 West of the 6th P.M.; thence east on said north line of said SW ¼ for a distance of 1,488.72 feet to a point of intersection with the east line of a tract of land descried in Condemnation Case 06CV-3456; thence south on the east line of said Condemnation Case 06CV-3456 to a point of intersection with the north line of Miles Lakewood Village Second Addition, Wichita, Sedgwick County, Kansas; thence west on said north line of said Miles Lakewood Village Second Addition to the northwest corner of said Addition; thence south on the west line of said Miles Lakewood Village Second Addition to a southwest corner of said Addition; thence east on a south line of said Miles Lakewood Village Second Addition to a corner of said Addition; thence south on a west line of said Miles Lakewood Village Second Addition to a point of intersection with a northeast corner of Maize 54 Addition, Wichita, Sedgwick County, Kansas; thence south on the east line of said Maize 54 Addition to a point of intersection with the north right of way line of Kellogg Drive; thence southwesterly on a south line of said Maize 54 Addition 419.31 feet to a corner in said Maize 54 Addition; thence south on an east line of said Maize 54 Addition 125 feet to a corner of said Maize 54 Addition, said corner being on the north right of way line of Kellogg Drive; thence continuing south for a distance of 95 feet more or less to the south right of way line for Kellogg Drive; thence west on said south right of way line of Kellogg Drive to the a point of intersection with the west right of way line extended of Maize Road; thence north on the west right of way of Maize Road to point lying 770.16 feet south of the northeast corner of the SE 1/4, Section 30, Township 27 South, Range 1 West of the 6th P.M.; thence west for a distance of 380 feet; thence northwesterly to a point lying 670.14 feet south of and 474 feet west of said northeast corner of said SE ¼, Section 30, Township 27 South, Range 1 West; thence west 526 feet; thence north 335.08 feet; thence west 290 feet to the east line of Lark Lane; thence north along the east line of Lark Lane to a point of intersection with the south right of way line of Hidden Valley Road; thence east on the south right of way line of Hidden Valley Road to a point of intersection with the west right of way line of Maize Road; thence north on the west right of way line of Maize Road to the point of beginning.

MASTER SITE PLAN

LEGEND

- ENTERTAINMENT
- RESTAURANT
- RETAIL/ COMMERCIAL
- OFFICE
- HOSPITALITY
- PARKING
- EXISTING COMMERCIAL
- PHASE BOUNDARY
- SUB-PHASE BOUNDARY

PROJECT DATA

PHASE	SUB-PHASE	ACRES	SITE SF	BUILDING SF
BOWLLAGIO	BOWLLAGIO	4.10 A	101,288 SF	[illegible]
	HOTEL	1.08 A	80,112 SF	[illegible]
	COMMERCIAL/GARAGE	3.65 A	158,083 SF	COMM [illegible]
			(515 STALLS)	GARAGE [illegible]
SUBTOTAL		9.19 A	400,213 SF	[illegible]
RESTAURANT	RESTAURANT 1	0.80 A	38,788 SF	[illegible]
	RESTAURANT 2	1.18 A	51,483 SF	[illegible]
	RESTAURANT 3	0.63 A	27,443 SF	[illegible]
	RESTAURANT 4	1.06 A	43,580 SF	[illegible]
	COMMERCIAL	1.68 A	62,228 SF	[illegible]
	COMMERCIAL/GARAGE	2.26 A	88,445 SF	COMM [illegible]
			(324 STALLS)	GARAGE [illegible]
SUBTOTAL		7.86 A	314,944 SF	[illegible]
N. MAIZE COMMERCIAL	OFFICE 1	1.75 A	74,031 SF	[illegible]
	OFFICE 2	2.20 A	95,831 SF	[illegible]
	RESTAURANT 1	0.89 A	38,388 SF	[illegible]
	RESTAURANT 2	0.57 A	24,838 SF	[illegible]
	COMMERCIAL/GARAGE	2.46 A	115,888 SF	COMM [illegible]
			(178 STALLS)	GARAGE [illegible]
SUBTOTAL		9.02 A	349,349 SF	[illegible]
TOTAL		22.06 A	1,061,505 SF	[illegible]

DEVELOPMENT PLAN

EXHIBIT 2

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Improvements to the K-96/Greenwich Interchange (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the design changes and the revised budget.

Background: On October 13, 2009, the City Council approved a design concept and a design contract with Professional Engineering Consultants (PEC) to begin design work to complete the two missing legs of the interchange at K-96 and Greenwich. On April 1, 2012, City staff was approached by the engineers working with the developer on the east side of Greenwich at K-96 about changing the design and utilizing roundabouts instead of the proposed signals at the interchange. With PEC already working on the design of the interchange, a supplemental contract was executed to have them evaluate the roundabout design.

Analysis: The evaluation of the roundabout design was complete by PEC in May of 2012. The results showed that a signalized interchange with signals at both off-ramps, 26th Street North, and Greenwich Village Drive was more efficient, and was better received by the Kansas Department of Transportation (KDOT), which has to approve the final design. The changes required of PEC will be to update the break-in access that was previously approved by KDOT, redesign the existing interchange and redesign Greenwich from 21st to 27th. These design changes will allow the project to move forward on a proposed schedule to utilize Community Improvement District (CID) funds for a portion of construction.

State/Federal funding administered through the Kansas Department of Transportation will require standard agreements to be signed throughout the course of the project. Design needs may require the acquisition and/or granting of easements as well as utility relocation agreements and/or compensation for the same.

Financial Consideration: Staff is requesting that the City Council authorize a $1,000,000 budget for design changes, right-of-way acquisition, and utility relocation. The funding source is Local Sales Tax Funds and is included in the Adopted Capital Improvement Program (CIP). The construction cost is included in the Adopted CIP, although there is no local funding construction will be funded by the Cabela's CID and the proposed Star Bond district. The project will be returned to the City Council at a future date for approval of construction funding.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through an important transportation route.

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

Recommendation/Action: It is recommended that the City Council approve the design changes, approve the CIP budget, place the ordinance on first reading, authorize the signing of State/Federal agreements as required and authorize the signing of encroachment/utility agreements and easement dedications as required.

Attachments: Map, CIP sheet, and ordinance.

132019

First Published in the Wichita Eagle October 26, 2012

ORDINANCE NO. 49-362

AN ORDINANCE DECLARING **K-96 AND GREENWICH INTERCHANGE (472-85066)** 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.

WHEREAS, K.S.A. 12-685 provides that the governing body of any city shall have the power to designate and establish by ordinance any existing or proposed street, boulevard, avenue, or part thereof to be a main trafficway, the main function of which is the movement of through traffic between areas of concentrated activity within the city, and

WHEREAS, K.S.A. l2-687 provides that the governing body of any city shall have the power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. l2-685 et seq., and

WHEREAS, K.S.A. l2-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. l2-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the city at large from the general improvement fund, general revenue fund, internal improvement fund, or any other fund or funds available for such purpose or by the issuance of general improvement bonds.

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

SECTION l. That **K-96 and Greenwich Interchange (472-85066)** in the City of Wichita, Kansas is hereby designated and established as a main trafficway, the primary function of which is the movement of through traffic between areas of concentrated activity within the City, said designation made under the authority of K.S.A. l2-685.

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **K-96 and Greenwich Interchange (472-85066)** as a main trafficway in the following particulars:

The design, acquisition of right-of-way and relocation of utilities as necessary for a major traffic facility.

SECTION 3. The costs of the construction of the above described improvements is estimated to be **One Million Dollars ($1,000,000)** exclusive of the cost of interest on borrowed money, with total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. l2-689.

SECTION 4. The above described main trafficway improvements shall be made in accordance with the Plans and Specifications prepared under the direction of the City Engineer of the City of Wichita and approved by the governing body of the City of Wichita, Kansas. Said plans and specifications are to be placed on file in the office of the City Engineer.

SECTION 5. Be it further ordained that the improvements described herein are hereby authorized under the provisions of K.S.A. l2-685 et seq.

SECTION 6. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 23rd day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council Members

SUBJECT : Public Hearing on Proposed Assessments for six (6) Paving Projects, four (4) Water Projects, five (5) Sewer Projects, and four (4) Storm Sewer Projects in the January, 2013. Bond Sale Series 812 (Districts; II, III, IV, V, VI, County)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the proposed assessments and ordinances.

Background: The City Council was notified on September 11, 2012 and September 18, 2012 that the proposed assessment rolls were on file for public inspection in the Department of Finance.

Analysis: Notice of hearing letters were published September 14, 2012 for six (6) paving projects in the Wichita Eagle. Notice of hearing letters were published on September 21, 2012 for four (4) water line projects, five (5) sewer projects and four (4) storm water drain projects, in the Wichita Eagle for new additions; being not less than ten days prior to the date of hearing . All affected property owners have been notified in writing. Department of Finance and Public Works staff held an informal hearing on October 1, 2012 for the paving projects and October 8, 2012 at 11:00 a.m. for the water, sewer and storm sewer projects.

Financial Considerations: Statements of Special Assessment will be mailed to the property owners on November 9, 2012. The property owners have 30 days from the date of statement to pay their assessment and avoid paying interest. The assessments not paid during this period will be in the January 2013 Bond Sale. The interest added to the principal amount will be determined by the rate at which the bonds sell. The principal and interest will then be spread and placed on the 2013 tax roll.

Goal Impact: The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

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

Recommendation/Action: It is recommended that the City Council close the Public Hearing, approve the proposed assessments and place the ordinances on first reading.

Attachment: Special Assessments projects list and ordinances.

HEARING ON PROPOSED ASSESSMENTS FOR CONSTRUCTION OF PAVING, WATER, SEWER, AND STORM SEWER PROJECTS:

On September 11, 2012 the Council was notified that the Proposed Assessment Rolls for construction of the following paving projects has been prepared and were on file in the office of Debt Management in the Finance Department for public inspection:

On September 18, 2012 the Council was notified that the Proposed Assessment Rolls for construction of the following water, sewer and storm sewer projects has been prepared and were on file in the office of Debt Management in the Finance Department for public inspection:

PAVING PROJECTS:

49-363

a. (490-272/472-84462) constructing pavement on Westport, Kap, Kentucky Lane, Kentucky Court, Willoughby, & Willoughby Circle, to and including cul-de-sac and sidewalk (North of 13th Street North, West of 135th Street West), as authorized by Resolution No. 06-554, adopted October 17, 2006, and published October 20, 2006. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $454,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District V.

49-364

b. (490-262/472-84800) constructing pavement on Fontana, Park Ridge, & Chambers (East of 119th Street West, North of 29th Street North), as authorized by Resolution No. 09-239, adopted July 21, 2009, and published July 24, 2009. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $394,550.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District V.

49-365

c. (490-249/472-84823) constructing left turn lanes on Orme, deceleration lanes including a commercial driveway approach on both the east and west sides of Oliver (along Oliver, South of Kellogg), as authorized by Resolution No. 09-209, adopted July 14, 2009, and published July 17, 2009. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $208,250.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a square foot basis. District III.

49-366

d. (490-279/472-84945) constructing pavement on Willowgreen Circle, to and including cul-de-sac (North of Pawnee, West of 127th Street East), as authorized by Resolution No. 10-297, adopted November 16, 2010, and published November 19, 2010. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $167,100.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

49-367

e. (490-281/472-84959) constructing pavement on Chesterfield (North of 13th, West of Greenwich), as authorized by Resolution No. 11-006, rescinded by 11-096, rescinded by 11-186, adopted January 11, 2011, April 26, 2011, August 2, 2011, and published January 14, 2011, April 29, 2011, August 5, 2011. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $194,600.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

49-368

f. (490-274/472-84909) constructing pavement on 33rd Street North, Mascot, & on 33rd Street to serve as a pickup & drop off area for the school, including sidewalk (North of 29th Street North, East of Seneca), as authorized by Resolution No. 10-202, rescinded by 12-220 adopted July 27, 2010, September 25, 2012, and published July 30, 2010, corrected and republished August 6, 2010, September 28, 2012. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 10, 2012 in the amount of $325,700.00 is to be apportioned 94.03% payable by the improvement district, 5.97% payable by the City-at-large. The cost has been assessed on a square foot basis. District VI.

WATER PROJECTS:

49-369

g. (470-137/448-90263) Construction of Water Distribution System, North of Pawnee, East of 135th St. West, as authorized by Resolution No. 07-063, adopted February 6, 2007, and published February 8, 2007, corrected and republished February 23, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $95,500.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District IV.

49-370

h. (470-129/448-90500) Construction of Water Distribution System, South of Harry, West of 127th St. East, as authorized by Resolution No. 10-279, adopted November 2, 2010, and published November 5, 2010. Petition for this improvement was signed by owners representing 57.89% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $222,100 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a square foot basis. District II.

49-371

i. (470-139/448-90513) Construction of Water Distribution System, North of 13th, West of Greenwich, as authorized by Resolution No. 11-036, adopted March 8, 2011, and published March 11, 2011. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $134,000.00 is to be apportioned 35% payable by the City Water Utility ; 65% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

49-372

j. (470-140/448-90528) Construction of Water Distribution System, North of 21st, West of 159th St. East, as authorized by Resolution No. 11-165 rescinded by 12-017, adopted July 12, 2011; January 24, 2012, and published July 15, 2011; January 27, 2012. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $87,000.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

SEWER PROJECTS:

49-373

k. (480-011/ 468-84147) Construction of LATERAL 2, MAIN 19, FOUR MILE CREEK, To Serve Stonebridge 2nd & Stonebridge 3rd Additions, North of 13th, West of 159th St. East, as authorized by Resolution No. 06-071 rescinded by 07-285, 11-041, 11-112, adopted February 14, 2006, May 1, 2007, March 22, 2011, May 10, 2011; published February 17, 2006, May 5, 2007, March 25, 2011, May 13, 2011. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $157,850 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District -County.

49-374

l. (480-019/ 468-84731) Construction of LATERAL 168, WAR INDUSTRIES SEWER, To Serve Berkeley Square First Addition & Unplatted Tract; Home Bank & Trust Addition, North of 13th, West of Greenwich, as authorized by Resolution No. 11-037, adopted March 8, 2011; published March 11, 2011. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $144,250 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

49-375

m. (480-012/ 468-84288) Construction of LATERAL 5, MAIN 6, COWSKIN INTERCEPTOR SEWER, To Serve Turkey Creek 3rd Addition, North of Pawnee, East of 135th St. West, as authorized by Resolution No. 07-072, adopted February 6, 2007; published February 8, 2007. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $126,450 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District IV.

49-376

n. (480-013/ 468-84751) Construction of LATERAL 20, MAIN 7, NORTHWEST INTERCEPTOR SEWER, To Serve New Market Office 2nd Addition, North of 29th, West of Maize, as authorized by Resolution No. 11-091, adopted April 26, 2011; published April 29,

2011; corrected & republished July 23, 2012.. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $32,250 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District V.

49-377

o. (480-020/ 468-84770) Construction of LATERAL 2, MAIN 23, FOUR MILE CREEK, To Serve Monarch Landing 3rd Addition, North of 21st, West of 159th St. East, as authorized by Resolution No. 11-166 rescinded by 12-016, adopted July 12, 2011, January 24, 2012; published July 15, 2011, January 27, 2012. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012 in the amount of $124,100 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

STORM SEWER PROJECTS:

49-378

p. (485-376/468-84121) Construction of SWD No. 282, East of 119th Street West, North of 29th Street North, as authorized by Resolution No. 05-621, rescinded by 09-307, adopted November 22, 2005, September 22, 2009, and published November 25, 2005, September 25, 2009. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012, in the amount of $365,450.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District V.

49-379

q. (485-377/468-84122) Construction of SWD No. 283, East of 119th Street West, North of 29th Street North, as authorized by Resolution No. 05-622, rescinded by 09-308, adopted November 22, 2005, September 22, 2009, and published November 25, 2005, September 25, 2009, corrected and republished October 9, 2009. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012, in the amount of $381,350.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District V.

49-380

r. (485-394/468-84765) Construction of SWD No. 377, East of 127th Street East, South of 21st Street, as authorized by Resolution No. 11-147, adopted June 14, 2011, and published June 17, 2011. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012, in the amount of $285,700.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

s. (485-387/468-84734) Construction of SWD No. 371, North of 13th, East of 143rd Street East, as authorized by Resolution No. 11-042, rescinded by 11-114, rescinded by 11-152, adopted March 22, 2011, May 10, 2011, June 21, 2011, and published March 25,2011, May 13, 2011, June 24, 2011, corrected and republished February 1, 2012. Petition for this improvement was signed by owners representing 100% of the property ownership. The Statement of Cost approved July 17, 2012, in the amount of $346,650.00 is to be apportioned 100% payable by the improvement district. The cost has been assessed on a fractional basis. District II.

Agenda Item No. IV-5

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council Members

SUBJECT: 2011 Fraternal Order of Police Memorandum of Agreement

INITIATED BY: Human Resources Department

AGENDA: New Business

Recommendation: Approve the proposed 2011 Memorandum of Agreement between the City and the Fraternal Order of Police (FOP) Lodge #5.

Background: The City's negotiating team and FOP Lodge #5 have reached an agreement on a Memorandum of Agreement for 2011. FOP represents all employees bearing the rank of Station Clerk, Traffic Safety Officer, Warrant Officer, Crime Scene Investigator, Police Recruit, Police Officer, Police Detective, and Police Sergeant. The union membership ratified the agreement.

Analysis: The agreement will be in effect retro-actively from December 25, 2010 through December 20, 2011. Eligible employees will receive 2.5% step increases and no general pay adjustments.

This is a one-year agreement. A separate contract was also ratified, covering years 2012 – 2014.

Financial Considerations: The agreement is consistent with the 2012 Adopted budget. The 2012 cost of the increases in salary-based benefits is $516,392.

Goal Impact: This agreement affects the City's goals of Quality of Life, Safe and Secure Community, Core Areas and Neighborhoods, Economic Vitality and Affordable Living, Efficient Infrastructure, and Internal Perspectives.

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

Recommendation/Action: It is recommended that the City Council approve the proposed 2011Memorandum of Agreement between the City and the Fraternal Order of Police Lodge #5.

Attachment: Memorandum of Agreement

MEMORANDUM OF AGREEMENT

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS

AND

FRATERNAL ORDER OF POLICE

LODGE #5, WICHITA, KANSAS, INC.

DATE EFFECTIVE: DECEMBER 25, 2010

DATE ENDING: DECEMBER 23, 2011

Table of Contents

PREAMBLE 1
ARTICLE 1 1
RECOGNITION OF EMPLOYEE ORGANIZATION 1
ARTICLE 2 2
MANAGEMENT RIGHTS AND RESPONSIBILITIES 2
ARTICLE 3 3
EMPLOYEE RIGHTS AND RESPONSIBILITIES 3
ARTICLE 4 4
NONDISCRIMINATION 4
ARTICLE 5 5
STRIKES AND LOCKOUTS 5
ARTICLE 6 5
HOURS OF WORK AND DUTY SHIFTS 5
Section 1. Overtime and comp-time. 5
Section 3. Holidays 7
ARTICLE 7 9
COMPENSATION 9
Section 1. General Statements 9
Section 2. Rates of Pay. 10
Section 3. Longevity Pay 10
Section 4. Educational Differential 11
Section 5. Shift Differential. 11
Section 6. Specialty Duty Pay. 12
Section 7. Stand By and/or Call Back. 12
Section 8. Field Training Officer and Field Training Sergeant Compensation. 12
Section 9. Court Appearance. 13
Compensation 14
Section 10. Rotation Pay – Shift Differential 14
Section 11. Annual Fitness Test. 14
Section 12. Canine Officers 14
ARTICLE 8 14

CHECKOFF AND PAYROLL PROCEDURE 14
ARTICLE 9 15
EMPLOYEE BENEFITS AND ALLOWANCES 15
Section 1. Retirement and Pension Funds. 15
Section 2. Medical and Hospitalization Insurance. 16
Section 3. Life Insurance. 16
Section 4. Wichita Police Benefit Fund Association. 17
Section 5. Automobile Insurance. 17
Section 6. Uniforms and Equipment. 17
Section 7. Travel and Business Expense. 19
ARTICLE 10 19
LEAVES OF ABSENCE 19
Section 1. General Statements. 19
Section 2. Annual Vacation Leave. 20
Section 3. Sick Leave. 22
Section 4. Injury Leave. 24
Section 5. Bereavement Leave. 26
Section 6. Educational Leave. 26
Section 7. Professional Conferences and Meetings. 26
Section 8. Jury Duty. 27
Section 9. Court Appearance in Official Capacity 27
Section 10. Court Appearance in Personal Matters. 28
Section 11. Military Leave. 28
Section 12. Time Off for F.O.P. Business. 28
Section 13. Other Leave of Absence. 29
ARTICLE 11 29
SENIORITY 29
ARTICLE 12 31
PROMOTIONS AND TRANSFERS 31
Section 1. Promotional Policy 31
Section 2. Notification of promotion or transfer. 31
Section 3. Posting of vacancies. 32

Section 4. SCAT, CP & SRO 32
Section 5. Temporary assignments. 32
ARTICLE 13 32
DISCIPLINARY PROCEDURES 32
Section 1. Definitions 32
Section 2. Professional Standards investigations. 33
Section 5. Employee's signature. 38
Section 7. Complaints 39
Section 8. Just Cause. 39
ARTICLE 14 39
GRIEVANCE PROCEDURE 39
Section 1. Definition. 39
Section 2. Procedure. 39
Section 3. Grievance Board. 40
Section 4. Burden of proof. 41
Section 6. City Manager's decision. 42
Section 7. Termination cases. 42
Section 8. Letters of discipline. 42
Section 9. FOP representation at Safety Review Board. 42
ARTICLE 15 43
WORKING CONDITIONS AND EQUIPMENT 43
Section 1. Practice ammunition. 43
Section 2. Firing range 43
ARTICLE 16 43
MISCELLANEOUS PROVISIONS 43
Section 1. FOP bulletin boards. 43
Section 2. Employee's department personnel file. 44
Section 3. WPD Nominating Committee. 44
Section 4. Group Orientation. 44
ARTICLE 17 45
INTERPRETATIVE PROVISIONS 45
ARTICLE 18 46

SUBSTANCE TESTING 46
ARTICLE 19 46
DURATION AND TERMINATION 46
APPENDIX A 48

The City of Wichita will hereinafter be referred to as "City," and the Fraternal Order of Police, Lodge #5, Wichita, KS., Inc., will hereinafter be referred to as "F.O.P."

PREAMBLE

WHEREAS, the parties hereto desire to maintain the existing harmonious relations; to advance mutual interests in the preservation of public safety, law and order; to promote standards and conditions of employment for police officers of the City of Wichita, Kansas; to achieve harmonious and peaceful adjustment of differences which may arise; and to establish standards for wages, hours, benefits and other conditions of employment.

ARTICLE 1

RECOGNITION OF EMPLOYEE ORGANIZATION

Section 1.

The City recognizes the F.O.P. as the sole and exclusive representative for the purposes of negotiating collectively with the City pursuant to the Public Employer-Employee Relations Act of the State of Kansas, with respect to wages, hours, benefits and other terms and conditions of employment for all members of the bargaining unit.

Section 2.

The bargaining unit consists of all employees in classifications listed in Appendix A.

Section 3.

If any classification in the bargaining unit is retitled, this Memorandum of Agreement shall be construed to include such retitled classification in Appendix A. If any additional classification is included in the bargaining unit, the City and the F.O.P. will meet and confer concerning the terms and conditions of employment.

Section 4.

This Agreement shall be binding upon all employees in the bargaining unit.

ARTICLE 2

MANAGEMENT RIGHTS AND RESPONSIBILITIES

Section 1.

The F.O.P. acknowledges that the City and its management have certain exclusive statutory rights and responsibilities which they may not surrender. Except as expressly provided otherwise by this Agreement or by law, the City shall retain its rights to make, amend or execute decisions and policies that are necessary to operate and maintain the City and its programs and to otherwise carry out its lawful rights and responsibilities.

Section 2.

Except as expressly provided otherwise by this Agreement or by law nothing contained in this Agreement shall circumscribe or modify the statutory right of the City to:

(1) To determine the services and level of services to be offered by the City;

(2) To determine the number of employees required;

(3) To schedule overtime as determined necessary;

(4) To lay off, terminate, or otherwise relieve employees for lack of work or other legitimate reasons;

(5) To determine the fact of lack of work, provided that officer safety is not compromised;

(6) To discipline for just cause;

(7) To direct the work of its employees;

(8) To take actions as may be necessary to carry out the mission of the department in emergencies;

(9) To hire, promote, demote, transfer, assign and retain employees in positions within the Wichita Police Department;

(10) To maintain the efficiency of governmental operation;

(11) To determine the method, means and personnel by which operations are to be carried on;

Section 3.

The above rights, responsibilities and prerogatives are inherent in the City and its management.

Section 4.

A copy of all department and bureau goals and S.O.P.'s will be delivered to the F.O.P. for review and comment.

Section 5.

The City of Wichita and the Wichita Police Department create and update policies (i.e. Administrative Regulations, WPD Policies and Regulations) as needed. Occasionally employees will be asked to sign a document acknowledging receipt of the document. An employee's signature will be compelled for receipt of the document only.

ARTICLE 3

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1.

The City acknowledges that the employees must possess and exercise a high degree of integrity, courage and sense of responsibility, and are specially trained and skilled in their duties. When it employs these employees, the City does so with the express intent of encouraging a professional attitude on the part of these employees, and of honoring their rights and prerogatives. Correspondingly, the employees are to be governed by the highest ideals of honor and integrity in all of their public and personal conduct in order that they merit the respect and confidence of the public.

Section 2.

Employees shall have the right to form, join and participate in the activities of the F.O.P. and may refuse to join or participate in any F.O.P. activities.

ARTICLE 4

NONDISCRIMINATION

Section 1.

No employee shall be discriminated against because of race, color, creed, national origin, age, sex, religion, ancestry or disability, by either the City or the F.O.P.

If any grievance is filed under this section, and any complaint is filed with any other board, agency or court with concurrent jurisdiction concerning the same incident, the grievance shall be held in abeyance until the other board, agency or court has rendered its decision.

Section 2.

The City shall not directly or indirectly discourage, deprive or coerce any employee in the enjoyment of any rights conferred by the laws of Kansas and the United States; and shall not discriminate against any employee with respect to hours, wages or any other term or condition of employment by reason of membership in the F.O.P., or participation in any of its activities,

collective negotiations with the City, or institution of any grievance, complaint or proceeding under this Agreement with respect to any terms or conditions of employment.

ARTICLE 5

STRIKES AND LOCKOUTS

Section 1.

The City shall not institute, authorize, cause, aid, ratify or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by the employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law.

Section 2.

The F.O.P. shall not authorize, cause, aid, ratify, condone nor shall any employee take part in, aid, render assistance to, or support any action for the purpose of coercing a change in the conditions, rights, privileges or obligations of employment through failure by concerted action with others to report for duty or failure to work at usual capability in the performance of the normal duties of employment.

ARTICLE 6

HOURS OF WORK AND DUTY SHIFTS

Section 1. Overtime and comp-time.

Employees will receive overtime pay for hours worked in excess of 40 during a work week at the rate of one and one half times the regular rate of pay. Police Sergeants will receive overtime pay for hours worked in excess of 42.5 hours in a week at one and one half times the regular rate of pay. The following paid leaves of absences shall be included in computing hours worked: authorized holidays, injury leave and jury duty. As required by the Fair Labor Standards Act (FLSA) the work week for employees in the bargaining unit is 7:01 a.m. Saturday through 7:00 a.m.

Saturday. The normal workweek is five consecutive 8-hour days (8.5 hour for Sergeants), with two consecutive days off, or four consecutive 10-hour days (three consecutive 10.5 hour days and one 11 hour day for Sergeants) with 3 consecutive days off. The City retains the right to schedule overtime work as required.

At the request of an employee and with supervisor approval, an employee may adjust their workday start-time and/or end time to accomplish the following:

- Perform work-related tasks to enhance community safety
  - Conduct surveillances
  - Attend beat team meetings
  - Attend community meetings
  - Take part in neighborhood projects
  - Special enforcement initiatives
  - Other police projects
- Accommodate family or personal appointments

In addition, an employee, with supervisor approval, will be permitted to change their days off within a given work week to accomplish the above listed items. In any event, employees will not be permitted to work more than 40 hours (42.5 hours for 85 hour pay period employees) a week unless compensated by overtime.

When requested by an employee and authorized by the Chief of Police or designated departmental management representative, time off at the rate of one and one-half (1.5) of the overtime hours worked by an employee may be granted in lieu of overtime payment. An employee shall be allowed to accrue and carry over up to 40 hours of compensatory time. Use of compensatory time shall be subject to management approval, advance notice, and staffing requirements, but shall not be unreasonably denied.

Section 2.

A 28-day work period is established for the bargaining unit for purposes of administering holidays. The contract effective date and work period is December 26, 2009.

Section 3. Holidays

(a) Time off with pay shall be granted for eleven authorized holidays; New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, Christmas and 2 Personal Holidays.

(b) Probationary employees are not eligible to use Personal Holiday hours until they have completed six months of service. Holidays that occur during an approved leave of absence with pay, except injury leave, are not charged as days of leave taken.

(c) For designated holidays *except* Thanksgiving, Christmas, New Year's Day and Independence Day, the employee shall be granted the actual holiday off when law enforcement activities permit. If an employee is required to work on the holiday, or a holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. If an employee cannot take an authorized holiday off within the 28-day work period in which the holiday falls, and is required to work, the employee shall be compensated in addition to the employee's regular pay at time and one-half for the hours worked.

(d) For the Thanksgiving, Christmas, New Year's Day and Independence Day holidays, an employee, who requests it, shall be granted the actual holiday off when law enforcement activities permit. If the holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. An employee who works on either the Thanksgiving, Christmas, New Year's Day or Independence Day holiday, shall be compensated in addition to their regular pay at time and one-half for the hours worked. Field officers who are scheduled to work on a premium pay holiday may choose to work that day or request the day off, as law enforcement activities permit.

Section 4.

The normal workday for Traffic Safety Officers, Police Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be eight or ten consecutive hours. The normal workday for Police Sergeants shall be between eight and eight and one half consecutive hours or ten and ten and one half consecutive hours. The normal workday for all other employees, shall be eight or ten

consecutive hours. Whenever an employee requests and is approved by the supervisor to work a split shift they shall be allowed one hour of their work day scheduled for travel. The normal workday may be lengthened or shortened as law enforcement activities require. Overtime will be paid in accordance with Section 1 of this article.

Section 5.

All employees shall be allowed two 15-minute breaks with pay per work day. The parties agree to maintain the current practices for scheduling and length of meal periods. Those employees scheduled for a (9) nine hour day shall receive a (60) sixty minute unpaid meal period.

Section 6.

The shifts in effect on the effective date of this Agreement shall be continued if at all possible, provided that if the City is required or desires to change such shifts, it shall make every reasonable effort to notify the F.O.P. in order to allow the F.O.P. to have input concerning such changes.

Section 7.

When an employee appears for a Professional Standards interview or Accident Review Board hearing which occurs outside of the employee's normal working hours, such employee will be paid for a minimum of two hours. However, if the interview time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two hour minimum. Employees shall be paid for all required fitness for duty examinations which occur outside of the employee's normal working hours.

Section 8.

When an employee is called into work for any reason, other than Professional Standards interview, Accident Review Board hearing or a fitness for duty examination, outside of the employee's normal working hours, the employee will be paid at the overtime rate for a minimum of two (2) hours, regardless of his/her pay status at the time. However, if the call in time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two (2) hour minimum.

ARTICLE 7

COMPENSATION

Section 1. General Statements

(a) The City will continue to write job requirements for each position classification within the bargaining unit and will initially determine the classification of each position in accordance with the classification plan presently in effect. Modifications in any classification will be delivered to the F.O.P. in advance of such modification being made to allow input concerning such modification, which will be given due consideration.

(b) The minimum rate of pay for a class shall be paid on the original appointment to the class, provided that (1) the appointment to a higher rate within the wage range for a class may be authorized by the City when it is impossible to recruit qualified persons at the minimum rate for the class, or in recognition of exceptional qualifications of a candidate; and (2) any employee who is promoted shall be advanced to the nearest step in the higher wage range that represents an hourly increase in pay of at least 3.0% over pay the employee was receiving prior to the employee's promotion. Employees who are promoted, demoted or advanced in pay, their anniversary or merit date shall remain the same throughout his/her career.

The Police Recruit classification is established at one range lower than Police Officer. Police Recruits are eligible to participate in one of the health insurance programs offered by the City and receive paid holidays. Police Recruits, in the course of any investigation or a situation involving possible disciplinary action, shall be entitled to F.O.P. representation. A termination of a recruit or probationary employee may not be grieved. Upon satisfactory completion of recruit training, recruits will be advanced to the position of Police Officer and will be eligible for all benefits afforded full-time employees.

An exception is made for full-time employees of the City who become Police Recruits. Full-time employees may continue to participate in the life insurance program, in addition to health insurance and receiving paid holidays. While the employee is in recruit training, use of prior accrued leaves is not permitted, nor will the recruit accrue additional leave. Prior accrued leaves and seniority for accrual of longevity benefits (vacation, sick leave and longevity pay) will be reinstated upon appointment to Police Officer.

(c) The rates of pay for employees subject to this agreement are shown in Appendix B, Appendix C, and Appendix D of this contract. Rates of pay reflect the base rate for each employee.

(d) Employees assigned the duties of a higher position shall be compensated at the rate of pay for the higher position for those hours worked if the employee is so assigned a period of time 20 consecutive work days or more in any 12-month period. This provision does not apply to employees on probation.

Section 2. Rates of Pay.

(a) The rate of pay for Police Recruit is one range less than the beginning step of Police Officer, Range 722, step A.

(b) After an employee has satisfactorily completed recruit training, the employee shall be advanced to the position of Police Officer and shall have a twelve-month probationary period.

(c) All employees covered by this agreement shall have fifteen (15) pay steps. Within range increases from Steps A through O shall be based on satisfactory performance and after 12 months of service in grade. Advancement may be granted after exemplary service on the Department Director's recommendation and with the approval of the City Manager. The denial of a step increase shall be considered a grievable matter for commissioned personnel.

(d) Bilingual pay in the amount of $10.00 per hour for translation, paid in 15 minute increments, in addition to their base hourly rate shall be paid to each officer designated by the Chief of Police. The Chief shall determine which languages, other than English, are necessary to conduct police operations and how many officers will be eligible to receive bilingual pay. An initial test shall be established and administered by the Chief of Police or the Chief's designee to determine competency and eligibility, but only those designated by the Chief of Police shall receive such pay.

(e) Employees in grant-funded special assignments, rather than grant funded positions, shall be paid at the overtime rate for all time working those assignments unless prohibited by the grant.

Section 3. Longevity Pay.

In consideration of long and faithful service, the City Manager shall authorize payment of longevity pay to the employees every pay period in addition to their base pay. Employees will become eligible for longevity pay upon the completion of six (6) years total accumulative service with the City. The

amount of this pay to employees shall not exceed $2.00 times the total years of accumulative service per month, e.g., $2.00 times five years of service equals $10.00 monthly longevity pay. Upon the completion of eleven (11) years total accumulative service with the City, the amount of pay shall be increased, not to exceed $5.00 times the total years of accumulative service per month, e.g., $5.00 times twelve years of service equals $60.00 monthly longevity pay.

Section 4. Educational Differential.

Commencing the first full pay period after the approval of this agreement, Police Officers, Police Detectives, and Police Sergeants shall receive educational pay in the amount of $110.00 per month for a baccalaureate or $135 per month for a masters degree from an accredited college or university. For commissioned officers hired after 12/27/86, a degree must be in Administration of Justice, a related field, or meet the requirements of the department.

Academic degrees earned must be from a degree-granting institution which has been accredited by the American Association of Collegiate Registrars and Admissions Officers and certified as eligible by Human Resources.

Commissioned officers are not eligible for tuition reimbursement from the City of Wichita.

Section 5. Shift Differential.

(a) Employees in the bargaining unit required to work 2nd, 3rd or 4th shift will receive shift differential pay at the rate of $.75 per hour in addition to their base pay.

(b) Differential pay will be determined by the shift starting time;

1st Shift:	From 6:00 a.m.	To 10:00 a.m.
2nd Shift:	From 10:00 a.m.	To 5:00 p.m.
3rd Shift:	From 5:00 p.m.	To 11:00 p.m.
4th Shift:	From 11:00 p.m.	To 6:00 a.m.

Section 6. Specialty Duty Pay.

Specialty Duty Pay of $60 per pay period will be provided to officers in the positions listed below. However, an officer that meets more than one of the criteria shall be paid a total of only $60 per pay period (an officer is not eligible for more than one specialty pay).

1. those officers who are assigned to the Bomb Unit;

2. those officers who are assigned as Canine Officers;

3. those officers who are assigned to the SWAT Team;

4. those officers who are Clandestine Lab Processors;

5. those officers assigned to the Air Section

Section 7. Stand By and/or Call Back.

(a) All employees required to carry a pager or any communication device while off duty and not on standby, who are called back to duty, shall not be subject to disciplinary action, transfer of assignment or changing of days off unless such non-availability becomes detrimental to the employee's ability to perform his/her duty assignment or is in direct conflict with the rules and regulations of the department.

(b) Any employee placed on standby for the purpose of being called back to duty and required to remain at home or at a specific place shall be compensated at the rate of time and one-half for all actual duty time or restricted time.

Section 8. Field Training Officer and Field Training Sergeant Compensation.

The City agrees to pay each officer who is designated as a Field Training Officer by the Chief of Police an additional 80 cents per hour while actually assigned to the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall occur only during the regular training cycle or remedial training cycle established for such new officers and/or during the time Field Training Officers are assigned to the Training Bureau. The City agrees to pay each Sergeant who is designated as a Field Training Sergeant 70 cents per hour while actually assigned to supervise the training of

newly commissioned officers and newly commissioned reserve police officers. This pay shall only occur during the regular training cycle or remedial training cycle established for such new officers by the Chief of Police and/or during the time Field Training Sergeants are assigned to the Training Bureau.

Section 9. Court Appearance.

Employees may elect one of the following two options when subpoenaed for Municipal Court:

1. Employees may contact the Court Liaison Officer before their scheduled court time and leave a pager, cell or home phone number where they can be reached for two (2) hours after their scheduled court time. If employees are not contacted by the Court Liaison Officer within two (2) hours after their scheduled court time, they will be released from their subpoena.

2. Employees may contact the Court Liaison Officer thirty (30) to sixty (60) minutes after their scheduled court time. At that time, employees will be released or not released from their subpoena. If employees are not released from their subpoena, they may:

    a. Agree to call-back at a certain time;
    b. Ask the Court Liaison Officer to call back at a certain time; or
    c. Agree to report to Court.

Off-duty employees will have fifty (50) minutes to report to Court starting from the time they are ordered or agree to report.

Employees may use the time awaiting a determination from the Court Liaison Officer as they choose.

Compensation

Off-duty employees will be compensated from the time they are ordered to Court and the time spent in Court thereafter. Employees will be paid a minimum of two (2) hours after any Court appearance.

Section 10. Rotation Pay – Shift Differential.

Within the investigations division there are positions for police officers that are limited in duration and are designed to allow officers from the field services division to learn about the investigative function by spending time working in the investigations division. These positions are considered rotation investigative assignments. While officers are assigned to these positions, they will continue to receive shift differential paid in their previous assignment. This provision will not apply to officers temporarily assigned to the investigations division for other reasons (i.e. administrative, light duty, etc.)

Section 11. Annual Fitness Test.

All employees will be given the option of taking an annual fitness test. Those individuals who take and pass the test will receive a $100.00 bonus for each year in which they pass the test. The requirements for the test will be recommended by a joint committee of two members from the F.O.P. and two members from police administration. The committee's recommendations will be subject to approval by the Chief of Police.

Section 12. Canine Officers

Canine Officers shall work a nine (9) hour work day, with the tenth (10th) hour of each scheduled work day being devoted to the training, care and maintenance of their canines. When canine officers are on paid leave they shall be charged for nine (9) hours of leave time per day but shall be paid for ten (10).

ARTICLE 8

CHECKOFF AND PAYROLL PROCEDURE

Section 1.

Whenever duly authorized by any employee on a form or forms appropriate for such purpose and consistent with the regulations established by the Human Resources Department of the City, payroll deductions shall be made and paid in accordance with such form or forms for any or all of the following purposes:

(1) Donations to the Friendship Fund;

(2) Premiums for employee health, dental and life insurance benefits;

(3) Police Benefit Fund for commissioned police officers only, as defined by the Benefit Fund by-laws

(4) Deferred Compensation;

(5) Employee Organization Dues; and

(6) Deduction to the Wichita Federal Municipal Employee's Credit Union.

Section 2.

The authorization form or forms will include a provision that an employee may terminate the deduction for F.O.P. dues upon written notice to the City and the F.O.P. during the months of March and September.

ARTICLE 9

EMPLOYEE BENEFITS AND ALLOWANCES

Police Recruits are not eligible for any employment benefits except health insurance. Benefits and allowances become effective when the Police Recruit is classified as Police Officer.

Section 1. Retirement and Pension Funds.

Employees shall come under the retirement systems as set forth by the City of Wichita in effective ordinances and charter ordinances. The bargaining unit employees agree to be bound by

any changes in the retirement systems that are approved by a majority vote of all employees covered thereunder.

(a) The City will post pensionable pay categories on the City web portal so to provide information about the pension benefits to employees and provide contact information so that employees can contact the Board of pensions to obtain any information needed regarding their pensions.

(b) If the Pension Board revokes the disability pension of any former bargaining unit member for the reason that the member is no longer disabled, the department must rehire that member at the rank, pay step and seniority that member held at the time of his retirement, except that seniority shall include time spent in retirement.

(c) In order to be eligible for rehire, pursuant to paragrapb (b) above, the retiree must:

(1) Successfully complete the application process; and

(2) If a disciplinary investigation was pending at the time he/she was awarded a disability pension, the retiree must have cooperated in that investigation. Such retirees shall retain all of their grievance rights under this contract at the time of the imposition of any discipline.

Section 2. Medical and Hospitalization Insurance.

The City will extend to all employee groups the same health insurance program(s) available to all full-time City Employees. For those participating in the City plan, the City will pay 80% of the health insurance premium of the lowest cost plan offered by the City. The employee will pay 20% of the health insurance costs of the lowest cost health insurance plan offered by the City and additional costs of any other health plan the employee group selects. Participation in the health insurance program is optional with each employee.

Section 3. Life Insurance.

The City agrees to provide a group life insurance in the amount of two times the employee's base annual salary, rounded up to the next higher thousand (up to a maximum of $150,000). The City and employees shall share equally in the cost of the life insurance plan. The life insurance program is optional.

Section 4. Wichita Police Benefit Fund Association.

The City recognizes the existence of the Wichita Police Benefit Fund Association, and recognizes the right of all commissioned officers to belong to the same, subject to the by-laws of the Wichita Police Benefit Fund Association.

Section 5. Automobile Insurance.

The City shall provide liability insurance protection for each employee covered by this Agreement during authorized operation of a City vehicle or equipment. Any legal representation shall be provided by the insurer at no expense to the employee or pursuant to Section 2.62.100 et. seq. of the City Code. The department will complete State accident reports in officer involved accidents only when required by State reporting criteria.

Section 6. Uniforms and Equipment.

(a) The City shall furnish or reimburse an employee for all required equipment and initial issue of uniforms the employee is required to possess by virtue of the employee's employment with the City. Replacement or renovation of issued leather equipment, except shoes, and boots, which have become unserviceable through fair wear and tear shall be done at no cost to the employee's uniform and equipment allowance. Replacement of bulletproof vests, which have become unserviceable through fair wear and tear, or at the expiration of the manufacturer's warranty, shall be done at no cost to the employee's uniform and equipment allowance.

(b) Police Officers, Police Detectives, Police Sergeants, Traffic Safety Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be allowed a clothing allowance up to a maximum of $650 in department credit or vouchers in accordance with department policy.

(1) Uniformed employees may expend up to one-half of the uniform and equipment allowance for civilian attire each year.

(2) Police Detectives may expend their total uniform and equipment allowance for either uniform items or civilian attire according to individual requirements.

(3) No cash payments or carry over credit will be given for any under expended portion of the annual uniform and equipment allowance.

(4) Police Officers who are in assignments which are expected to last at least four (4) months and which require civilian clothing shall be allowed to expend their total uniform and equipment allowance for either uniform/equipment items or civilian attire according to individual requirements.

(5) "All employees assigned to the Special Weapons And Tactics (SWAT) team, Clandestine Lab, or Explosive Ordinance Disposal (EOD) Unit shall be allowed a one time expenditure of 75% of their annual uniform and equipment allowance for the purchase of personal SWAT team, Clandestine Lab, or Explosive Ordinance Disposal Unit related equipment not issued by the City. Thereafter, SWAT team, Clandestine Lab, and EOD Unit members shall be allowed to spend up to a maximum of 50% of their annual uniform and equipment allowance on personal SWAT team, Clandestine Lab, or EOD related items not issued by the City."

(6) Officers may use the full uniform and equipment allowance at any time from January 1 through November 30 of each year.

(c) The City shall repair or replace uniforms, including leather goods, civilian attire, and prescription eyewear damaged or destroyed in the line of duty. The employee who suffers the damage to equipment described above will submit a claim with a complete report of circumstances surrounding the incident, including the police case number, to the Commander of the Support Services Division through channels who will rule on this claim in writing within five days. Under no circumstances will the City be responsible for damages to any equipment when it is determined that the employee was negligent or that the damage was not the result of an in-line-of-duty police activities.

(d) While on duty in uniform or plain clothes, any member of the F.O.P. may wear the F.O.P. pin sold by the F.O.P. Grand Lodge to its members. The pin shall be worn on the left front pocket flap of the uniform.

(e) Employee retiring from service may retain their badge provided they agree that the badge will be sealed or encased preventing its official use. The retiring employee may pay for the cost of the badge from his/her uniform allowance.

(f) Employees retiring from service, except for medical disability for psychological reasons, may be able to purchase their duty weapon at the fair market value. In order to purchase the weapon, the purchase must be in accordance with all applicable laws, including sales, waiting periods and licensing. A qualified employee may expend his/her unspent clothing allowance to purchase their duty weapon.

Section 7. Travel and Business Expense.

Employees shall be reimbursed for all authorized travel and business expense in accordance with the City's administrative policies and regulations covering such advancements and reimbursements.

ARTICLE 10

LEAVES OF ABSENCE

Section 1. General Statements.

(a) Leaves of absence with pay include: Vacation, sick (including maternity), well-day, injury, emergency, civil and other leave with pay. Leaves of absence without pay include: Sick (including maternity), educational, military and other leave without pay.

(b) All full-time employees who have completed recruit training and are represented by the F.O.P. earn benefits.

(c) An employee must be in pay status while on leave of absence to accumulate benefits, except that seniority credit may be accrued while on military leave without pay. When an employee

is promoted, demoted or transferred, all sick and vacation leave remains to the employee's credit and is transferred with the employee.

(d) Vacation leave will be earned on hours in pay status, exclusive of overtime, and will be calculated at the time the payroll is processed. Base hours for computing vacation leave are 2,080 per year for employees of the unit except for Police Sergeants which is up to 2,210 per year. All requests for leave of absence shall be made in writing in advance of the beginning date to the immediate supervisor, except that requests for sick leave, injury leave and emergency leave shall be made pursuant to the requirements of the sections dealing with those respective leaves. Leave, with or without pay, is to be reported on the Employee Time Record in actual hours of work and actual hours of leave.

Section 2. Annual Vacation Leave.

Employees entering the service of the City earn vacation leave on the basis of credited full-time employment. Police Recruits do not earn vacation leave.

(a) The rate at which vacation leave is earned is determined by the start-work date or adjusted start-work date, except:

> Employees with prior creditable employment are not eligible to earn vacation leave based on their adjusted start-work date until after completion of two years reemployment.

(b) All requests for vacation leave will be approved by departmental seniority within the Police Department.

(c) Vacation leave for employees of the unit is earned at the following rates:

Years of Service	80 Hour Employees Hours per Year	Hours Accrued per Pay Period	85 Hour Employees Hours per Year	Hours Accrued per Pay Period
Less than 5	96	3.6923	102.0	3.9231
5	104	4.0000	110.5	4.2500
7	112	4.3077	119.0	4.5769

8	120	4.6154	127.5	4.9038
9	128	4.9231	136.0	5.2308
10	136	5.2308	144.5	5.5577
12	144	5.5385	153.0	5.8846
14	152	5.8462	161.5	6.2115
16	160	6.1538	170.0	6.5385
18	168	6.4615	178.5	6.8654
20	176	6.7692	187.0	7.1923
25	200	7.6923	212.5	8.1731

(d) Vacation leave may not be taken in advance of vacation earned, nor prior to completion of six months satisfactory service. Employees must have satisfactorily completed six months of their probationary appointment before being eligible to take vacation or be paid for terminal vacation.

(e) An employee who goes on military leave for extended active duty or is terminated will be paid for any unused vacation leave by adding the total sum due to the employee's last payroll check. In the event of an employee's death, any vacation pay due will be included in the final payroll check.

(f) Vacation leave is scheduled in the department according to the policies established by the Department Director. Vacation may not be taken in excess of the hours appearing on the payroll stub nor in increments of less than thirty minutes. The Department may not cancel a vacation which has been scheduled unless the emergency mobilization plan is in effect.

(g) Employees are allowed to accumulate and carry forward each year 240 hours (255 hours for Sergeants) of vacation leave. Employees will be required to use or lose vacation earned in

excess of 240 hours (255 hours for Sergeants) before the end of the pay period in which the anniversary of their full-time (i.e., not limited) employment date occurs.

(h) An employee who is called back to duty or subpoenaed to appear in court on police business during the employee's vacation leave shall be granted additional vacation leave equal to one day for each full day or partial day of vacation leave actually lost due to travel and appearance or duty time. At the option of the employee, the employee may receive pay at straight time for those days rather than taking the days off. In addition, the City shall make and pay all necessary travel arrangements and expenses for the employee to report as required and to return to employee's vacation. If the employee has not received personal service on a subpoena from the court and the employee is out of state on authorized vacation and is called back to court, the employee will receive pay at the rate of time and one half for time actually spent in court with a two hour minimum, regardless of any other leave time in the pay period, in addition to replacement of vacation time for every day or partial day actually lost due to travel and appearance or duty time.

Section 3. Sick Leave.

(a) Accrual. Upon appointment to the position (except Police Recruit), employees shall accrue sick leave at the rate of 1.8462 hours per pay period or 48 hours per year (1.9615 hours per pay period or 51 hours per year for sergeants) for the first five years of creditable service. Beginning year six and through year fifteen of creditable service, sick leave will be accrued at the rate of 3.6923 hours per pay period or 96 hours per year. (3.9231 hours per pay period or 102 hours per years for sergeants). Beginning year sixteen of creditable service, sick leave will be accrued at the rate of 4.3077 hours per pay period or 112 hours per year. (4.5769 hours per pay period or 119 hours per year for sergeants).

Employees with prior creditable service are eligible to accrue sick leave benefits based on their adjusted start work date after two years of continuous service from the date of rehire.

(b) Sick Leave Use. Sick leave may be used for personal illness, off-the job injury, dependent illness including paternity leave, and enforced quarantine.

(1) Dependent Illness. Sick leave may be used for illness of members of the employee's immediate family. Immediate family is defined as spouse, children (including stepchildren) parent, and any relative living in the

employee's home. In no event may the employee charge in excess of forty-eight (48) hours per payroll year for dependent illness.

(2) Enforced quarantine in accordance with community health regulations.

(3) A probationary employee will not be paid for accrued sick leave used during the first six months of service. Payment for accrued sick leave used during the first six months will be made the pay period following completion of six months of satisfactory service. Payment for sick leave for other than probationary employees is in accordance with established policies previously defined. The accumulation of sick leave is unlimited.

(c) When taking sick leave, an employee shall give notice to a supervisor by telephone or messenger thirty minutes prior to the employee's scheduled time to report for duty. Upon return to work, the employee shall file a report on a form furnished by the City stating the reasons for the absence. When an employee has been on sick leave for five (5) consecutive work days, the City may require the employee to be examined by a physician it designates. The City may require a physician's statement anytime sick leave abuse is suspected. The burden of proof rests with the City to show abuse in the grievance process.

(d) A leave of absence shall be granted for maternity upon request. Such request must be presented in writing to the employee's immediate supervisor, setting forth a date such leave is to begin, as soon as that date can be determined by the employee and the employee's physician. Maternity leave shall be charged against accrued sick leave, and the Department Director or the Human Resources Director may require the employee to be examined by a physician of the City's choice. If maternity leave extends beyond the employee's accrued sick leave, leave may be granted in accordance with policies governing sick leave without pay.

(e) An additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants) shall be granted to an employee who has completed the previous payroll year as a full-time employee and who did not report more than 24 hours of sick leave, or up to 25.5 hours for Police Sergeants, in the preceding payroll year. Any employee who completed the previous payroll year beginning December 16, 2006 as a full-time employee and who did not use any sick leave hours during the payroll year will

receive ONE additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants). Well day leave must be taken in increments of not less than four hours with prior approval of the immediate supervisor. Well day leave is granted the second pay period following the payroll year, is noncumulative and is not charged against accrued leaves.

(f) An employee shall be eligible for sick leave without pay when the employee has exhausted all regular sick leave and vacation leave, provided the maximum sick leave without pay shall not exceed 60 calendar days. If an employee has used the employee's vacation leave on account of sickness, the Department Director may grant a leave of absence without pay as provided in Section 13 of this article.

(g) Sick leave may also be used by an employee under the circumstances specified in Sections 4 of this article.

Section 4. Injury Leave.

(a) During recruit training the City will pay authorized Workers Compensation benefits to a Police Recruit injured during training.

(b) After appointment to Police Officer, the City will pay benefits to the injured employee over and above the authorized Workers' Compensation benefits sufficient to allow the employee to receive up to the amount of the employee's full pay check during the first 90 days of disability.

(c) After 90 consecutive days, the employee will be paid according to the terms of the Workers' Compensation Act until released to return to work and use sick leave and/or vacation leave as needed above the Workers' Compensation benefit to allow the employee to receive a full pay check.

(d) All injuries, including heart and lung disease, will be considered and defined in accordance with the Workers' Compensation Act of the State of Kansas and the interpretive cases arising thereunder. The City will provide all employees who file a workers' compensation claim with a fact sheet regarding their rights and the City's responsibilities under State workers' compensation laws.

(e) Recurring leave of absence related to a previous injury shall be considered one and the same injury if the injury occurs within 365 days, subject to administrative analysis and diagnosis of

the injury reporting physician. However, if recurring leave relating to a previous injury is required after one year (365 days) from date of release by the physician, such leave will be treated as a new injury case.

(f) The Department Director shall provide all personnel in the F.O.P. with a list of physicians certified by the City to handle cases coming under the Workers' Compensation Act, herein referred to as a "certified physician." In the event of noncritical injury, the department shall refer the employee to a certified physician for medical attention. In the event of critical injury, appropriate arrangements for emergency treatment shall be made and a certified physician shall be called to be in charge of the case unless such action may result in a delay that would be detrimental to the injured employee, in which case the department shall authorize the most expeditious care and treatment possible.

(g) Any employee who suffers a work related injury subject to this Section and who consults with a physician without authorization will receive reimbursement for the unauthorized consultation as allowed by the Kansas worker's compensation statutes

(h) Notwithstanding the foregoing, if a Police Officer, Police Detective, or Police Sergeant sustains, in the line of duty and not during secondary employment, (1) any injury which is peculiar to police work or (2) any injury while performing a function which is peculiar to police work, which causes the employee to be unable to perform the employee's duty, the employee shall continue to be paid by the City on the same basis as the employee was paid before the injury with full benefits and no deduction from any accumulated leave or overtime accumulation during the time the employee is unable to perform the employee's duty as a result of the injury, but not longer than one year from the initial date of injury.

At any time during the period for which continuing compensation is required by this provision, the City may order, at the expense of the City, medical examination of the injured person to determine the degree of disability. During this period of disability, the injured person shall not be employed in any other manner with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this provision from the time such employment begins. Any salary compensation due the injured person from Workers' Compensation, or any salary due the employee from any type of insurance which

may be carried by the City, shall revert to the City during the time for which continuing compensation is paid to the employee under this provision.

(i) Any use of the FMLA during injury leave will be at the sole discretion of the employee. If the employee is unable to perform the employee's duties after one year from the date of the intial injury, then the employee may be placed on FMLA leave by the employer.

Section 5. Bereavement Leave.

(a) Eligibility. In the event of a death in an employee's immediate family, the employee may be allowed a leave of absence with pay up to a maximum of five (5) work days within the two week period immediately following the death of an immediate family member. Immediate family member is defined as an employee's spouse, children, step-children, parents, stepparents, state-approved foster child, or any relative living in the employee's home. For the death of a father-in-law, mother-in-law, brother, sister, grandparents, grandchildren, daughter-in-law, or son-in-law the employee may be allowed a leave of absence up to a maximum of three (3) work days to be taken within the two week period immediately following the death of any of these persons. This leave must be approved by the Division Commander and is not charged against any leave accumulation. In the event the employee must travel out of state, the employee shall be allowed up to two additional days of leave, chargeable to the employee's vacation accrual or sick leave accrual.

(b) An employee who is unable to work because of a death in the immediate family must notify a supervisor by telephone or messenger, prior to the employee's scheduled time to report.

Section 6. Educational Leave.

Educational leave of absence without pay may be granted to an employee not to exceed 12 months. Course work shall be related to a law enforcement career. Requests shall be submitted to the Department Director in writing, and must be approved on the basis of the City's policy.

While on educational leave, without pay, no additional seniority is accrued.

Section 7. Professional Conferences and Meetings.

(a) Leave with pay may be granted in accordance with City policy to attend professional conferences and meetings, or to visit other cities in the interest of the City.

(b) It is acknowledged by both parties to this agreement that the role of professional standards investigators is to serve as fact finders regarding internal administrative investigations. To this end , these personnel are expected to have a high level of training regarding such investigations. Therefore, all investigative personnel assigned to this bureau will attend an applicable internal affairs training conference (such as labor relations information systems or Thomas & Means), within the first six (6) months of their assignment unless exigent circumstances exist. All investigative personnel will also attend the subsequent training seminars at an interval not to exceed 24 months unless exigent circumstances exist. The F.O.P. agrees that it will pay one-half (1/2) of the expenses for such training incurred by active members of the F.O.P.. All personnel assigned to the professional standards bureau will attend the shift steward training hosted by the F.O.P.

(c) Whenever possible any employee upon promotion to the rank of Captain shall attend immediate shift steward training class hosted by the F.O.P. that falls on the date following that promotion unless exigent circumstances exist.

Section 8. Jury Duty.

Upon receipt of an order requiring an employee to report for jury duty, the order will be shown to the immediate supervisor who shall receive the required permission from the Bureau Commander . An employee shall receive the employee's regular hourly rate for all scheduled work hours lost when the employee is required to serve as a member of a jury. Fees received by an employee while serving on a jury shall be turned over to the City Treasurer. An employee will not be required to return money received as reimbursement for travel and meals while serving on jury duty, and an employee is not required to return money received while serving on jury duty on regular days off, holidays or vacation.

Section 9. Court Appearance in Official Capacity.

Court appearance in an official capacity is considered working time. During an employee's regular working hours, no leave of absence is necessary for such court appearance. If such court appearance is during off-duty hours, the employee shall be compensated in accordance with Article VI, Section 6. In either event, when the employee is compensated by the City for court appearance, the employee shall turn over to the City Treasurer any witness fees received.

Section 10. Court Appearance in Personal Matters.

If an employee is involved in court as a party in a case, the employee may be granted a leave of absence without pay or, at the employee's option, may have such time off charged to accrued vacation leave.

Section 11. Military Leave.

Requests for military leave will be handled in accordance with Title 38, U.S. Code, Section 2021 et. seq..

Section 12. Time Off for F.O.P. Business.

(a) If requested by the F.O.P. President, the F.O.P. Vice-President and F.O.P. President shall be assigned to the day shift with Saturday and Sunday off during their term in office. If this was requested, the City may return those officers to their original shift upon completion of their term in office. There shall be one chief lodge steward assigned to each bureau and one assigned to investigations/support. Whenever a vacancy occurs in one of the those chief lodge steward positions, the department will grant the F.O.P.'s request to transfer individuals in order to fill any such chief lodge steward vacancy. The department will transfer chief lodge stewards to those bureaus where they are needed.

(b) The F.O.P. President may appoint members of the bargaining unit who will be given time off with pay to conduct contract negotiations. The maximum number of collective hours of pay the City will provide for contract negotiations will be 300 hours. Nothing in this Memorandum of Agreement shall prohibit the F.O.P. or the City from being allowed to have outside assistance in contract negotiations.

(c) The F.O.P. President and two (2) members designated by the F.O.P. President shall be granted time off with pay to conduct F.O.P. business upon request to their supervisors. Such requests shall not be unreasonably denied.

(d) F.O.P. representatives shall record on an authorized form only the amount of time used for F.O.P. business in excess of thirty (30) minutes in an eight (8) hour day. Said form shall be signed by the F.O.P. representative and a supervisor. The supervisor shall forward the original form to the Chief's office.

(e) Upon approval of the Police Chief, or the Chief's designee, an F.O.P. representative may attend squad meetings periodically during negotiations to brief represented employees on the status of negotiations. Such briefings will not exceed ten minutes in length and will be confined to a factual report on the status of negotiations.

(f) Members of the F.O.P. Lodge #5 Executive Board, who are city employees, and on duty shall be granted reasonable time to attend the regular F.O.P. Lodge meeting each month, and the regular Executive Board meeting each month. A maximum of four (4) Shift Stewards who are working the shift of the regular F.O.P. Lodge meeting each month shall be granted reasonable time to attend the meeting, if the staffing permits. Anyone attending these meetings while on duty shall be subject to call from the Emergency Communications Dispatchers or any Police Supervisor at any time during the meeting. Lists of the Executive Board Members and the Shift Stewards will be provided to the Chief of Police every six (6) months or when a change in the previous list occurs. The Chief will also be given written notice at least fifteen (15) days in advance of such meetings.

Section 13. Other Leave of Absence.

The Department Director may grant leaves of absence without pay to any employee up to 30 calendar days for any personal matter or emergency for good cause, except, such leave of absence without pay will not be granted until all vacation leave is exhausted.

ARTICLE 11

SENIORITY

Section 1.

Police Officers, Station Clerks and Warrant Officers shall serve a probationary period of 12 months. Traffic Safety Officers and Crime Scene Investigators shall serve a probationary period of 6 months. They shall have no seniority rights during this period, but shall be subject to all other clauses of this Agreement. All employees who are not laid off or discharged during the probationary period shall be known as full-time employees, and all employees will be given an equal opportunity to become full-time employees. When an employee acquires seniority, the employee's name shall be placed on the seniority list established by the Department Director.

"Departmental seniority shall be measured by service in any bargaining unit position covered by this agreement. Members of the bargaining unit shall not receive past service credit or other seniority credit for service outside of the bargaining unit." If length is equal, then time in grade shall control. If time in grade is equal, then relative seniority shall be determined by the lowest department I.D. number. Seniority for Sergeants will be determined by time in grade.

Section 2.

The seniority list shall be made current at the end of each quarter. As soon as possible thereafter, the City will make available for review at least one copy at each police facility with a copy delivered to the F.O.P.

Section 3.

All lay-offs shall be in inverse order of seniority of classification by Division. Laid off employees shall be recalled in order of seniority.

Section 4.

Seniority shall be broken if: (1) the employee quits; (2) the employee is properly discharged; (3) the employee is laid off and not rehired within 18 months; or (4) the employee is permanently disabled.

Should an employee be re-employed and covered by the F.O.P. Agreement, the employee will regain prior service seniority after being re-employed for one (1) complete year.

Section 5.

None of the provisions of this article shall be permitted to conflict with any obligation of the City under any Federal or State law concerning military service.

Section 6.

Except as provided in Section 1 of this Article an employee transferring into the bargaining unit from some other City department shall retain the employee's accumulated seniority for purposes of vacation accumulation, sick leave accumulation and longevity pay.

Section 7.

Days off and vacations shall be determined by department seniority relative to all employees covered by this Agreement within the same work unit.

Section 8.

An employee's days off may be subject to change if the employee fails to meet reasonable minimum performance standards established in writing by the Chief of Police or Division Commander. A change in days off made pursuant to this section shall be subject to Article 14.

Section 9.

Upon being transferred into a different assignment, an employee may invoke seniority, as defined in section seven (7) of this article, only when an opening in days off becomes available.

ARTICLE 12

PROMOTIONS AND TRANSFERS

Section 1. Promotional Policy

Wichita Police Department Policy 216 details the promotional process for the ranks of Detective/Sergeant/Lieutenant. The parties hereby incorporate by reference the current department promotion policy for the ranks of Detective, Sergeant and Lieutenant. They specifically acknowledge that the procedures and requirements set out the current policy cannot be modified or changed in any manner without the express written agreement of the City and the F.O.P..

In the event a Crime Scene Supervisor position comes open, the City of Wichita promotional process will be followed in selecting a suitable candidate to fill the position. Current Crime Scene Investigators will have first consideration but the Chief of Police reserves the right to open the process to candidates outside of the department.

Section 2. Notification of promotion or transfer.

When an employee is promoted, or transferred, the employee will be notified in writing of such transfer or promotion at least seven days in advance of the promotion or transfer. In the event

a transfer must be made due to extenuating circumstances (requiring a case-by-case review), the seven day notice may not apply. Transfer is defined as a non-emergency shift change, division change or assignment change which can be reasonably expected to last for a period of one month or longer.

Section 3. Posting of vacancies.

Vacancies in the Field Services Division and the Traffic Section shall be posted for seven (7) calendar days to allow personnel to apply to the respective Bureau Commanders where the vacancy exists. Bureau Commanders shall consider the needs of the department, the qualifications, work history, and seniority of the applicants during the selection process. Any special considerations or preferences of personnel to fill the vacancies shall be listed at the time the position is advertised.

Section 4. SCAT, CP & SRO

There will be an bi-annual (April and October) selection process for each specialized assignment, (SCAT, Community Policing and School Resource Officers). For all other specialized assignment there shall be a selection process as needed. This list will remain in effect for one full year, for purposes of this section; specialized assignments are anything except basic patrol, and Sergeant positions. There will be standardized grid matrix for specialty units.

Section 5. Temporary assignments.

No employee may be placed in a temporary assignment for more than ninety (90) days. On the ninety-first day, the position shall be considered vacant and must be filled in accordance with this agreement.

ARTICLE 13

DISCIPLINARY PROCEDURES

Section 1. Definitions

If an employee commits misconduct on or off duty, disciplinary action may be taken against the employee. "Misconduct" occurs when an employee, by act or omission, neglects duty, fails to execute a lawful order, violates published departmental regulations, fails to follow departmental

policy, or commits a public offense. "Disciplinary action" is either corrective or punitive administrative action and includes the following:

(a) A documented verbal counseling or written reprimand, which shall be considered "minor disciplinary action;" and

(b) Demotion, suspension or dismissal, which shall be considered "major disciplinary action."

Section 2. Professional Standards investigations.

There shall be Professional Standards that conducts administrative investigations. Administrative investigations shall involve the investigation of complaints against an employee by citizens or fellow employees not amounting to a violation of the criminal laws or alleged violations of the criminal laws where only an administrative penalty may be imposed.

(a) When minor disciplinary action is imposed on an employee, a report of disciplinary action will be placed in the employee's departmental personnel file. The report will state the factual details of the misconduct, the disciplinary action imposed, and the approval of the appropriate command for such disciplinary action. The employee shall be provided with an executed copy of the report. The employee shall have 30 days to file a written response to the report. The response shall be placed in the employee's departmental personnel file and shall be attached to the report.

(b) When an employee is charged with misconduct which does or reasonably may result in the imposition of major disciplinary action, the employee shall be notified in writing of the charge within ninety-six (96) hours from the time that the charge/complaint is processed, the Department shall send written notification to the employee. The notification shall state the factual details of the accusations of the misconduct, the order, regulation, policy or law, of any alleged violation; the names and addresses of all witnesses; and all other material facts known to the City and its employees. The employee shall have the right to inspect and request copies of the record of the Professional Standards file of the employee. All records, reports, statements and information contained in the Professional Standards files are confidential and may only be used by the employee in a grievance, as described in Article 14, regarding discipline imposed on the matter which is the subject of records, statements and information obtained from the Professional Standards file.

(c) Whenever an employee has received discipline, within ninety-six (96) hours of the issuance of any such discipline, the Department shall provide to the F.O.P. the entire Professional Standards file, including all witness statements and reports contained therein, and any other material in the department's possession which relates to the charges or conduct which is the basis of the discipline for the purposes of determining whether a grievance should be filed over the discipline. This inspection and review shall be subject to the following limitations:

(1) All information learned from the review of the files and documents will be treated as confidential and may only be used by the F.O.P. in conjunction with the grievance procedure under the contract or in defense of any claim that the F.O.P. failed to meet its duty of fair representation owed to the employee/grievant.

(2) In order to review the aforesaid files and documents, the F.O.P. President, Vice-President, Chief Lodge Steward or other designated member of the Executive Board will be required to produce a document signed by the officer in question requesting that the President and Chief Lodge Steward be given access to these files and documents. It is agreed that if the officer involved does not give such consent for review of the files and documents by these F.O.P. officers, any discipline imposed upon the officer as a result of the incident under investigation shall not be considered in the database upon which the City relies in determining appropriate discipline.

(3) All letters of discipline which are issued to employees shall contain the following statement for the disciplined employee to sign: I request that a copy of this disciplinary notice be sent to the F.O.P. and that the F.O.P. shall be given access to the professional standards investigations resulting in discipline of me, and my personnel file.

____ Yes ____ No

(4) If a grievance is filed over the proposed discipline, which proceeds to a hearing before the Grievance Board, the F.O.P., shall be provided copies of the aforesaid files and documents to be used by the F.O.P. in conjunction with the grievance procedures under this contract or in defense of any claim that the F.O.P. failed to meet its duty of fair representation owed to the employee grievant.. It is agreed that these documents are confidential and must be treated in a confidential manner, and may not be used for any other purpose than the Grievance Board hearing.

It is further agreed that after the grievance procedure has concluded, the documents will be returned by the F.O.P. to the City.

(d) An interview of an employee under investigation for misconduct which reasonably may result in the imposition of major disciplinary action shall be recorded in a manner chosen by the investigator. The employee and the F.O.P. shall be entitled to record the interview electronically or in writing. If the recording device for the F.O.P., professional standards or the employee fails for any reason, all parties will provide copies of their recordings to one another upon request.

(e) An employee who is the subject of an internal investigation may request that a representative of the F.O.P. be present during the interview. The representative of the F.O.P. shall not obstruct the interview. The F.O.P. representative shall represent the employee in protecting the employee's rights. The F.O.P. representative may ask for clarification of questions.

If the F.O.P. representative cannot be made available at the designated time and location, the F.O.P. shall be obligated to provide an alternative representative, and the interview shall be delayed until a representative can be made available, overnight if necessary.

(f) Attendance by a representative of the F.O.P., during the interviews of employees, within the bargaining unit, will not obstruct administrative investigations. To that end, the City of Wichita and F.O.P. Lodge No. 5 agree that the following procedures will be followed:

(1) A representative of the F.O.P. may attend an interview only at the option of the employee. The option can be exercised after the employee has been advised that the representative's attendance may affect the confidentiality of the interview and that any communications the employee has with the representative outside of a Garrity-protected interview, may not be privileged as to third parties.

a. The F.O.P. representative may attend interviews of employees about whom the complaint or allegations of misconduct are made and which may result in discipline. A representative of the F.O.P. may attend interviews of employees who are witnesses.

b. The employee is responsible for contacting the F.O.P. about an impending interview.

c. Administrative investigators will not interview the F.O.P. representative to determine whether the employee's statements during the interview are consistent with his or her statements in private.

d. Administrative investigations of traffic accidents by departmental personnel assigned to investigate the accident and/or supervisors assigned to the scene of the accident will be exempted from this requirement.

e. Supervisors will be allowed to conduct a preliminary investigation of alleged misconduct to include a preliminary interview with the employee without F.O.P. representative present to determine whether an official internal investigation should be initiated.

f. At the request of the employee who is the subject of the investigation, an F.O.P. representative may be present in the pre-polygraph examination interview of that employee under the condition that the F.O.P. representative is only an observer and may make no comments or ask questions during the interview. During the polygraph examination, the F.O.P. representative shall be excluded from the room.

(2) The F.O.P. will designate representatives who may represent employees during administrative interviews.

a. Representatives will be available on all shifts.

b. The representative must currently be an active member of the F.O.P. Lodge No. 5 and within the bargaining unit.

c. The representative cannot be an employee who is or may be involved in the matter being investigated. If there is a possibility that the representative may be interviewed or may be involved in connection with the matter being investigated, a different representative shall be assigned.

d. Failure of the F.O.P. to make a representative available at the time of the scheduled interview, if the employee who is the subject of the investigation fails to provide the F.O.P. with timely notice, will not cause the interview to be postponed.

(3) The representative's role is limited to enforcement of the contract and employee's rights. The representative may not obstruct the investigation or the interview.

a. Any breaks are solely at the interviewer's discretion and shall be at reasonable intervals (approximately one break an hour).

b. In the event the representative repeatedly obstructs the interview, the interview will be temporarily halted and the Chief of Police and the F.O.P. President (or their designees) will be contacted and advised of the situation. The Chief of Police and the F.O.P. President (or their designees) will work to resolve the matter. If they agree the matter is resolved the F.O.P. representative may continue the representation of the employee being interviewed. If there is not agreement that the matter is resolved the F.O.P. representative may not continue and will be replaced with a substitute representative.

c. The professional standards interviewer will, at various times during the interview, ask the representative of the F.O.P. if he/she has any questions, comments or claifying points to make. At the conclusion of the interviewer's questions, the employee and the representative may take a reasonable break to consult and, thereafter, the employee make an additional factual statement or clarification.

d. The interview of any employee shall be at a reasonable hour, preferably when the employee is on duty, unless the circumstances of the investigation dictate otherwise, all as determined by the department.

e. The interview shall take place at a location designated by the investigating officer, usually at a police facility.

f. The employee shall be informed of the rank, name and command of the interrogating officers as well as the rank, name and command of the officer in charge of the investigation and identity of all persons present during the interview.

g. The interview shall be completed as soon as possible. Time may be provided for personal necessities, meals, telephone calls, and rest periods, as appropriate.

h. No offensive language, coercion or promise of reward as an inducement to answering questions shall be directed at the employee. Nothing herein is to be construed as to

prohibit the investigating officer from informing the employee that his conduct can become the subject of disciplinary action.

i. All Professional Standards interviews shall be recorded. There will be no off the record conversation during an interview, except by mutual agreement. All recesses called during an interview shall be noted in the record.

j. If major disciplinary action is imposed on an employee pending the determination of a complaint of misconduct and that complaint subsequently is determined to be unfounded or non-sustained or the employee is exonerated, the disciplinary action shall be revoked and the employee shall receive all rank, pay, and benefits lost as a result of the disciplinary action.

Section 3.

The Department Director shall establish a system for the receipt, investigation and determination of complaints by any person against employees which may result in the filing of criminal charges. That system shall include procedures to insure protection of an employee's Federal and State constitutional and statutory rights.

Section 4.

Prior to a change in the systems established pursuant to Sections 2 and 3 of this article, the Department Director shall notify the F.O.P. of the proposed change. The F.O.P. may comment in writing to the Department Director on the proposed change within ten work days of notification. The F.O.P.'s comments shall be given due consideration.

Section 5. Employee's signature.

Whenever an employee is ordered to place his signature upon any document or report for disciplinary action, it is understood that said employee is merely acknowledging receipt of said document and does not indicate whether or not the employee agrees or disagrees with the document, report or disciplinary action.

Section 6.

Employees receiving discipline shall have the option of forfeiting the appropriate number of accrued paid vacation days in lieu of the unpaid suspension, not to exceed ten (10) working days per calendar year.

Section 7. Complaints.

In cases where individuals have made false complaints against any member of the Department, which have been deemed unfounded, the Department will review such matters to determine whether it will prosecute such individuals involved.

Section 8. Just Cause.

Employees may only be disciplined for just cause.

ARTICLE 14

GRIEVANCE PROCEDURE

Section 1. Definition.

A grievance is defined as any dispute involving the application or alleged violation of any provision of this Agreement. A work day is defined as Monday through Friday, excluding holidays. Verbal warnings shall not be considered grievable matters.

Section 2. Procedure.

Any grievance as defined by Section 1 of this article shall be settled in the following manner:

(a) The grievance shall be taken in writing to the employee's Division Commander within ten (10) work days after the grievance occurs by the aggrieved employee and/or the F.O.P. The Division Commander will render a decision within five (5) work days. In cases involving disciplinary action, a grievance must be filed within ten (10) days of receipt of the official notification of the discipline imposed. Copies of the Division Commander's decision will be sent to the employee and the F.O.P.

(b) Should the grievance not be resolved by the Division Commander, the employee and/or the F.O.P. may take the grievance to the Department Director. The employee and/or the F.O.P.

representative must initiate the grievance in writing to the Department Director within five (5) work days from the date of receipt of the action of the Division Commander. The Department Director will render a decision within five (5) work days. Copies of the Department Director's decision will be sent to the employee and the F.O.P.

(c) Should the grievance not be resolved by the Department Director, the employee and/or the F.O.P. representative may appeal the Department Director's decision to the Employee Relations Officer within five (5) work days of the receipt completion of the Department Director's written decision. The Employee Relations Officer shall require of the Department Director to submit a letter setting forth specific reasons for the Department Director's decision. This letter must be submitted to the Employee Relations Officer within five (5) work days of his receipt of the appeal.

(d) The Employee Relations Officer shall, within fifteen (15) work days after receipt of the appeal, contact the F.O.P., the employee, and all supervisory personnel concerned, and attempt to resolve the grievance. The written results of the findings of the Employee Relations Officer will be given to the employee, the F.O.P., and to the Human Resources Director within fifteen (15) work days of the receipt of the appeal.

(e) If the grievant and/or F.O.P. is not satisfied with the findings of the Employee Relations Officer, they may request a hearing before the Grievance Board within five (5) work days of the receipt of the Employee Relations Officer report.

Section 3. Grievance Board.

The Grievance Board shall consist of the following individuals:

(1) One person appointed by the F.O.P.

(2) One person appointed by the City.

(3) A third person, who shall act as chairperson, and who shall be selected from a panel provided by the FMCS.

Within fifteen (15) working days of the request for a Grievance Board Hearing, the parties shall jointly and in writing, petition the Federal Mediation and Conciliation Service (FMCS) to submit a list of the names of five (5) competent and available arbitrators, from which the parties shall select the neutral chairperson. If a panel provided by the FMCS is unacceptable to either side, a

new panel may be requested by the side rejecting the panel within five (5) working days of the receipt of the rejected panel. Each side may exercise its right to reject only once per grievance. Within ten (10) working days after receiving such a list, the F.O.P. President and an official of the City, or their respective designees, shall alternately strike one (1) name from said list, until only one (1) name remains, and the person whose name remains on said list shall become the neutral Chairperson. The order of striking names shall be determined by the toss of a coin.
In all hearing conducted before the Grievance Board, the Administrative Rules of Evidence shall apply.

All Grievance Board Hearings shall be conducted within sixty (60) days of the selection of the Chairperson, unless the Grievance Board has granted a continuance. In any event, all Grievance Board Hearings must be conducted within one hundred twenty (120) days of the request for a Grievance Board Hearing.

All fees, costs and expenses of the Chairperson shall be shared equally by the City and the Union.

Section 4. Burden of proof.

The burden of proof shall be allocated as follows:

(a) In all disciplinary cases, the City shall bear the burden of proving just cause for the discipline imposed.

(b) In all contract interpretation cases, the party alleging the contract violation shall bear the burden of proof.

Section 5.

The Employee Relations Officer shall act as secretary of the Grievance Board and shall handle all correspondence. The Grievance Board shall draw all necessary rules and regulations for conducting its fact-finding hearings. The rules and regulations shall provide for the grievant and the City to:

Present evidence supporting their position

Call witnesses

Cross examine witnesses

Be represented by counsel at the hearing; and

Provide for a record of the hearing

Said rules and regulations shall be reviewed and approved by the F.O.P. and the City. The recommendation of the Board shall be forwarded to the City Manager within ten (10) work days of the conclusion of the hearing.

Section 6. City Manager's decision.

The City Manager shall render a decision within twenty (20) business days of receipt of the Grievance Board's recommendation and his decision is final. In the event the City Manager reverses or modifies the recommendation of the Grievance Board, he shall provide to the grievant and to the F.O.P., in writing, the reason(s) for his actions and the specific finding(s) upon which his actions were based. If the City Manager does not render a decision within this time, the decision of the grievance board becomes final.

Section 7. Termination cases.

In cases of termination, the grievant may proceed directly to step (d) of this procedure within five (5) work days from the employee's notice of termination.

Section 8. Letters of discipline.

Any letter of disciplinary action to be placed in an employee's personnel file shall specify the date when such letter is to be removed from such file (provided no subsequent discipline has been imposed during said period) or if appropriate specify that the letter is permanent and shall not be removed from the file.

Section 9. F.O.P. representation at Safety Review Board.

Whenever employees are scheduled by their supervisor and/or any other superior within their department, to attend a meeting concerning disciplinary action, or before a Safety Review Board, the person scheduling them shall advise them that they have the right to have a F.O.P. representative attend the meeting with them. The employee will be allowed an appropriate amount of time for scheduling a F.O.P. representative, overnight if necessary.

Section 10.

The parties agree that after a grievance has been filed by the F.O.P., neither the City nor any of its representatives will meet with the grievant in reference to the incident without prior notification to the F.O.P. The F.O.P. shall be present at any grievance meeting.

ARTICLE 15

WORKING CONDITIONS AND EQUIPMENT

Section 1. Practice ammunition.

(a) The City shall make available, at its expense, 600 rounds of ammunition each year for each employee covered by this Agreement who is required regularly to carry a weapon in the line of duty, for use by employees desiring to improve or maintain proficiency with their weapons.

(b) The City shall provide 4800 rounds of submachine gun ammunition and 1200 rounds of ammunition for each sniper rifle in the arsenal, and an additional 600 rounds of handgun ammunition for each member of the tactical team.

Section 2. Firing range.

The firing range shall be open and available in accordance with department procedure for those who desire to become more proficient with their weapons. The parties agree that all employees are encouraged to practice.

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 1. F.O.P. bulletin boards.

The City shall provide space on the bulletin boards in the Wichita Police Department for the F.O.P. to post notices. All notices shall be posted by an officer of the F.O.P. Notices relating to the

following matters may be posted without the necessity of receiving the Department Director's prior approval:

(a) Recreational and social functions.

(b) Notices of meetings.

(c) Appointments.

(d) Notice of elections.

(e) Results of elections.

(f) Reports of committees.

(g) Rulings or policies.

These items are restricted to F.O.P. matters.

Section 2. Employee's department personnel file.

An employee may review the employee's departmental personnel file upon request and may also review the employee's personnel file retained in the Human Resources Department of the City.

Section 3. WPD Nominating Committee.

The President of the F.O.P., or designee, shall be a permanent member of the Wichita Police Department Nominating Committee.

Section 4. Group Orientation.

During the course of training in recruit classes, police recruits will be advised of the representative status of the F.O.P. In addition, a fact sheet prepared by the F.O.P. and approved by the Department Director, which describes the goals and objectives, voluntary nature of membership, procedures for making and revoking allotments for the payment of F.O.P. dues, the procedure for processing grievances, and the coverage and scope of this Agreement, may be provided. Such information shall not be presented in a way that could be construed as critical of the City or in a way that indicates that membership in the F.O.P. is mandatory. The F.O.P. shall be

allowed one hour with the recruit class to distribute copies of the fact sheet and this Agreement, and to discuss organizational goals, policies, procedures and this Agreement.

ARTICLE 17

INTERPRETATIVE PROVISIONS

Section 1.

If any provision of this Agreement should be held invalid by any court of competent jurisdiction, or if compliance with or enforcement of any provisions should be restrained by any tribunal, the remainder of this Agreement shall not be affected thereby and the parties shall enter into negotiation for the sole purpose of redrafting a mutually satisfactory replacement for such provision so affected.

Section 2.

Should any change be made in any State or Federal law or regulation, which would be applicable and contrary to any provision herein contained, then such portion of this Agreement shall be automatically terminated but the remainder of the Agreement shall remain in full force and effect. The parties shall immediately commence to negotiate for the purpose of redrafting a mutually satisfactory replacement for such provision so affected.

Section 3.

All practices and conditions not covered by this Agreement shall continue to be governed, controlled and interpreted by reference to the City charter, ordinances, and rules and regulations.

Section 4.

Should the City wish to reclassify any position listed in this Agreement which would result in a decrease in the pay range or an increase in position responsibilities over and above the present duties for an affected pay range, either party may reopen negotiations for the purpose of negotiating base wages for the newly classified positions. All other provisions of the contract shall remain the same unless reopened by mutual agreement of both parties.

ARTICLE 18

SUBSTANCE TESTING

All employees shall be subject to random drug and alcohol testing as agreed upon by the City and the F.O.P. April 2007.

ARTICLE 19

DURATION AND TERMINATION

Section 1.

This Agreement shall take effect on **DECEMBER 25, 2010,** and shall continue in full force and effect through **DECEMBER 23, 2011.**

Section 2.

The parties agree that the negotiations for a successor Agreement shall commence as soon as the parties reasonably and mutually agree. All parties shall endeavor to begin negotiations for **2011** by August 1, 2010

IN WITNESS THEREOF, THE CITY has hereunto set their hands.

For the Fraternal Order of Police

For the City:

_____

Paul Zamorano, President

_____

Robert Layton, City Manager

This Agreement was approved by The Honorable City Council this _____

_____

Carl Brewer, Mayor

Attest:

Approved as to form:

_____

Karen Sublett, City Clerk

_____

Gary Rebenstorf, City Attorney

APPENDIX A

Station Clerk

Traffic Safety Officer

Warrant Officer

Crime Scene Investigator

Police Recruit

Police Officer

Police Detective

Police Sergeant

For purposes of this contract, commissioned personnel are defined as Police Officers, Police Detectives, and Police Sergeants. Non-commissioned personnel are defined as Traffic Safety Officers, Station Clerks, Warrant Officers and Crime Scene Investigators.

Agenda Item No. IV-6

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council Members

SUBJECT: 2012 - 2014 Fraternal Order of Police (FOP) Memorandum of Agreement

INITIATED BY: Human Resources Department

AGENDA: New Business

Recommendation: Approve the proposed 2012 – 2014 Memorandum of Agreement between the City and the Fraternal Order of Police Lodge #5.

Background: The City's negotiating team and FOP Lodge #5 have reached an agreement on a Memorandum of Agreement for 2012 - 2014. FOP represents all employees bearing the rank of Station Clerk, Traffic Safety Officer, Warrant Officer, Crime Scene Investigator, Police Recruit, Police Officer, Police Detective, and Police Sergeant. The union membership ratified the agreement.

Analysis: The agreement will be in effect from December 25, 2011 through December 19, 2014. Eligible employees will receive step 2.5% increases and general pay adjustments (GPAs) as follows:
2012: 1.5% effective July 7, 2012
2013: 1.5% effective December 22, 2012
2014 1.5% effective December 21, 2013

Other changes include:

- Increasing Compensatory Time allowance to 80 hours from 40 hours.
- Field Training Officer (FTO) pay will increase to $1.25 per hour from $0.80 per hour.
- Field Training Sergeant (FTS) pay will increase to $1.15 per hour from $0.70 per hour.
- Employees will receive a minimum of three (3) hours for court appearances, increased from two (2) hours. The additional hour will be credited toward Compensatory Time until employees have 80 hours accumulated.
- Uniform allowance will increase to $700per year from $650 per year.
- The City will meet and confer with the F.O.P. before adding or deleting classifications from the bargaining unit.
- Regarding the promotion policy, the Detective list will include the top fifteen percent (15%), or a minimum of five (5); the Sergeant and Lieutenant promotions will be made from the top twenty percent (20%), or a minimum of three (3) candidates.
- If a candidate is passed over for promotion, they will be notified in writing and in person within thirty (30) days of the reason and how to improve performance. At the request of the employee, this information may also be shared with the F.O.P.

This is a three-year agreement. A separate contract was also ratified for 2011.

Financial Considerations: The agreement is consistent with the 2012 Adopted budget. The 2012 cost of the GPA and related increases in salary-based benefits is $831,282.

Goal Impact: This agreement affects the City's goals of Quality of Life, Safe and Secure Community, Core Areas and Neighborhoods, Economic Vitality and Affordable Living, Efficient Infrastructure, and Internal Perspectives.

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

Recommendation/Action: It is recommended that the City Council approve the proposed 2012 – 2014 Memorandum of Agreement between the City and the Fraternal Order of Police Lodge #5.

Attachment: Memorandum of Agreement

MEMORANDUM OF AGREEMENT

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS

AND

FRATERNAL ORDER OF POLICE

LODGE #5, WICHITA, KANSAS, INC.

DATE EFFECTIVE: DECEMBER 24, 2011

DATE ENDING: DECEMBER 19, 2014

Table of Contents

PREAMBLE 1
ARTICLE 1 1
RECOGNITION OF EMPLOYEE ORGANIZATION 1
ARTICLE 2 2
MANAGEMENT RIGHTS AND RESPONSIBILITIES 2
ARTICLE 3 3
EMPLOYEE RIGHTS AND RESPONSIBILITIES 3
ARTICLE 4 4
NONDISCRIMINATION 4
ARTICLE 5 4
STRIKES AND LOCKOUTS 4
ARTICLE 6 5
HOURS OF WORK AND DUTY SHIFTS 5
Section 1. Overtime and comp-time. 5
Section 3. Holidays 6
ARTICLE 7 8
COMPENSATION 8
Section 1. General Statements 8
Section 2. Rates of Pay. 9
Section 3. Longevity Pay 9
Section 4. Educational Differential 10
Section 5. Shift Differential. 10
Section 6. Specialty Duty Pay. 10
Section 7. Stand By and/or Call Back. 11
Section 8. Field Training Officer and Field Training Sergeant Compensation 11
Section 9. Court Appearance. 11
Section 10. Rotation Pay – Shift Differential 12
Section 11. Annual Fitness Test. 13
Section 12. Canine Officers 13

ARTICLE 8 13
CHECKOFF AND PAYROLL PROCEDURE 13
ARTICLE 9 14
EMPLOYEE BENEFITS AND ALLOWANCES 14
Section 1. Retirement and Pension Funds. 14
Section 2. Medical and Hospitalization Insurance. 15
Section 3. Life Insurance. 15
Section 4. Wichita Police Benefit Fund Association. 15
Section 5. Automobile Insurance. 15
Section 6. Uniforms and Equipment. 15
Section 7. Travel and Business Expense. 17
ARTICLE 10 17
LEAVES OF ABSENCE 17
Section 1. General Statements. 17
Section 2. Annual Vacation Leave. 18
Section 3. Sick Leave. 20
Section 4. Injury Leave. 21
Section 5. Bereavement Leave. 23
Section 6. Educational Leave. 24
Section 7. Professional Conferences and Meetings. 24
Section 8. Jury Duty. 24
Section 9. Court Appearance in Official Capacity. 25
Section 10. Court Appearance in Personal Matters. 25
Section 11. Military Leave. 25
Section 12. Time Off for F.O.P. Business. 25
Section 13. Other Leave of Absence. 26
ARTICLE 11 26
SENIORITY 26
ARTICLE 12 28
PROMOTIONS AND TRANSFERS 28

Section 1. Promotional Policy 28
Section 2. Notification of promotion or transfer. 29
Section 3. Posting of vacancies. 29
Section 4. SCAT, CP & SRO 29
Section 5. Temporary assignments. 29
ARTICLE 13 30
DISCIPLINARY PROCEDURES 30
Section 1. Definitions 30
Section 2. Professional Standards investigations. 30
Section 5. Employee's signature. 35
Section 7. Complaints 35
Section 8. Just Cause. 35
Section 9. Critical Incidents 36
ARTICLE 14 36
GRIEVANCE PROCEDURE 36
Section 1. Definition. 36
Section 2. Procedure. 36
Section 3. Grievance Board. 37
Section 4. Burden of proof. 38
Section 6. City Manager's decision. 38
Section 7. Termination cases. 39
Section 8. Letters of discipline. 39
Section 9. F.O.P. representation at Safety Review Board. 39
ARTICLE 15 39
WORKING CONDITIONS AND EQUIPMENT 39
Section 1. Practice ammunition. 39
Section 2. Firing range 39
ARTICLE 16 40
MISCELLANEOUS PROVISIONS 40
Section 1. F.O.P. bulletin boards. 40

Section 2. Employee's department personnel file. 40
Section 3. WPD Nominating Committee. 40
Section 4. Group Orientation. 40
ARTICLE 17 41
INTERPRETATIVE PROVISIONS 41
ARTICLE 18 42
SUBSTANCE TESTING 42
ARTICLE 19 42
DURATION AND TERMINATION 42
APPENDIX A 44

The City of Wichita will hereinafter be referred to as "City," and the Fraternal Order of Police, Lodge #5, Wichita, KS., Inc., will hereinafter be referred to as "F.O.P."

PREAMBLE

WHEREAS, the parties hereto desire to maintain the existing harmonious relations; to advance mutual interests in the preservation of public safety, law and order; to promote standards and conditions of employment for police officers of the City of Wichita, Kansas; to achieve harmonious and peaceful adjustment of differences which may arise; and to establish standards for wages, hours, benefits and other conditions of employment.

ARTICLE 1

RECOGNITION OF EMPLOYEE ORGANIZATION

Section 1.

The City recognizes the F.O.P. as the sole and exclusive representative for the purposes of negotiating collectively with the City pursuant to the Public Employer-Employee Relations Act of the State of Kansas, with respect to wages, hours, benefits and other terms and conditions of employment for all members of the bargaining unit.

Section 2.

The bargaining unit consists of all employees in classifications listed in Appendix A.

Section 3.

If any classification in the bargaining unit is retitled, this Memorandum of Agreement shall be construed to include such retitled classification in Appendix A. If any additional classification is included in the bargaining unit, the City and the F.O.P. will meet and confer concerning the terms and conditions of employment.

Section 4.

This Agreement shall be binding upon all employees in the bargaining unit.

DRAFT

ARTICLE 2

MANAGEMENT RIGHTS AND RESPONSIBILITIES

Section 1.

The F.O.P. acknowledges that the City and its management have certain exclusive statutory rights and responsibilities which they may not surrender. Except as expressly provided otherwise by this Agreement or by law, the City shall retain its rights to make, amend or execute decisions and policies that are necessary to operate and maintain the City and its programs and to otherwise carry out its lawful rights and responsibilities.

Section 2.

Except as expressly provided otherwise by this Agreement or by law nothing contained in this Agreement shall circumscribe or modify the statutory right of the City to:

(1) To determine the services and level of services to be offered by the City;

(2) To determine the number of employees required;

(3) To schedule overtime as determined necessary;

(4) To lay off, terminate, or otherwise relieve employees for lack of work or other legitimate reasons;

(5) To determine the fact of lack of work, provided that officer safety is not compromised;

(6) To discipline for just cause;

(7) To direct the work of its employees;

(8) To take actions as may be necessary to carry out the mission of the department in emergencies;

(9) To hire, promote, demote, transfer, assign and retain employees in positions within the Wichita Police Department;

(10) To maintain the efficiency of governmental operation;

(11) To determine the method, means and personnel by which operations are to be carried on;

DRAFT

Section 3.

The above rights, responsibilities and prerogatives are inherent in the City and its management.

Section 4.

A copy of all department and bureau goals and S.O.P.'s will be delivered to the F.O.P. for review and comment.

Section 5.

The City of Wichita and the Wichita Police Department create and update policies (i.e. Administrative Regulations, WPD Policies and Regulations) as needed. Occasionally employees will be asked to sign a document acknowledging receipt of the document. An employee's signature will be compelled for receipt of the document only.

ARTICLE 3

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1.

The City acknowledges that the employees must possess and exercise a high degree of integrity, courage and sense of responsibility, and are specially trained and skilled in their duties. When it employs these employees, the City does so with the express intent of encouraging a professional attitude on the part of these employees, and of honoring their rights and prerogatives. Correspondingly, the employees are to be governed by the highest ideals of honor and integrity in all of their public and personal conduct in order that they merit the respect and confidence of the public.

Section 2.

Employees shall have the right to form, join and participate in the activities of the F.O.P. and may refuse to join or participate in any F.O.P. activities.

DRAFT

ARTICLE 4

NONDISCRIMINATION

Section 1.

No employee shall be discriminated against because of race, color, creed, national origin, age, sex, religion, ancestry or disability, by either the City or the F.O.P.

If any grievance is filed under this section, and any complaint is filed with any other board, agency or court with concurrent jurisdiction concerning the same incident, the grievance shall be held in abeyance until the other board, agency or court has rendered its decision.

Section 2.

The City shall not directly or indirectly discourage, deprive or coerce any employee in the enjoyment of any rights conferred by the laws of Kansas and the United States; and shall not discriminate against any employee with respect to hours, wages or any other term or condition of employment by reason of membership in the F.O.P., or participation in any of its activities, collective negotiations with the City, or institution of any grievance, complaint or proceeding under this Agreement with respect to any terms or conditions of employment.

ARTICLE 5

STRIKES AND LOCKOUTS

Section 1.

The City shall not institute, authorize, cause, aid, ratify or condone any action to provoke interruption of or prevent the continuity of work normally and usually performed by the employees for the purpose of coercing the employees into relinquishing rights guaranteed under the law.

Section 2.

The F.O.P. shall not authorize, cause, aid, ratify, condone nor shall any employee take part in, aid, render assistance to, or support any action for the purpose of coercing a change in the conditions, rights, privileges or obligations of employment through failure by concerted action with others to report for duty or failure to work at usual capability in the performance of the normal duties of employment.

DRAFT

ARTICLE 6

HOURS OF WORK AND DUTY SHIFTS

Section 1. Overtime and comp-time.

Employees will receive overtime pay for hours worked in excess of 40 during a work week at the rate of one and one half times the regular rate of pay. Police Sergeants will receive overtime pay for hours worked in excess of 42.5 hours in a week at one and one half times the regular rate of pay. The following paid leaves of absences shall be included in computing hours worked: authorized holidays, injury leave and jury duty. As required by the Fair Labor Standards Act (FLSA) the work week for employees in the bargaining unit is 7:01 a.m. Saturday through 7:00 a.m. Saturday. The normal workweek is five consecutive 8-hour days (8.5 hour for Sergeants), with two consecutive days off, or four consecutive 10-hour days (three consecutive 10.5 hour days and one 11 hour day for Sergeants) with 3 consecutive days off. The City retains the right to schedule overtime work as required.

At the request of an employee and with supervisor approval, an employee may adjust their workday start-time and/or end time to accomplish the following:

- Perform work-related tasks to enhance community safety
  - Conduct surveillances
  - Attend beat team meetings
  - Attend community meetings
  - Take part in neighborhood projects
  - Special enforcement initiatives
  - Other police projects
- Accommodate family or personal appointments

In addition, an employee, with supervisor approval, will be permitted to change their days off within a given work week to accomplish the above listed items. In any event, employees will not be permitted to work more than 40 hours (42.5 hours for 85 hour pay period employees) a week unless compensated by overtime.

When requested by an employee and authorized by the Chief of Police or designated departmental management representative, time off at the rate of one and one-half (1.5) of the overtime hours worked by an employee may be granted in lieu of overtime payment. An employee shall be allowed to accrue and carry over up to 80 hours of compensatory time. Use of

compensatory time shall be subject to management approval, advance notice, and staffing requirements, but shall not be unreasonably denied.

Section 2.

A 28-day work period is established for the bargaining unit for purposes of administering holidays. The contract effective date and work period is December 26, 2009.

Section 3. Holidays

(a) Time off with pay shall be granted for eleven authorized holidays; New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, Christmas and 2 Personal Holidays.

(b) Probationary employees are not eligible to use Personal Holiday hours until they have completed six months of service. Holidays that occur during an approved leave of absence with pay, except injury leave, are not charged as days of leave taken.

(c) For designated holidays *except* Thanksgiving, Christmas, New Year's Day and Independence Day, the employee shall be granted the actual holiday off when law enforcement activities permit. If an employee is required to work on the holiday, or a holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. If an employee cannot take an authorized holiday off within the 28-day work period in which the holiday falls, and is required to work, the employee shall be compensated in addition to the employee's regular pay at time and one-half for the hours worked.

(d) For the Thanksgiving, Christmas, New Year's Day and Independence Day holidays, an employee, who requests it, shall be granted the actual holiday off when law enforcement activities permit. If the holiday falls on a regular day off, the employee shall be given time off to be taken on a day selected by the employee within the 28-day work period in which the holiday falls, as law enforcement activities permit. An employee who works on either the Thanksgiving, Christmas, New Year's Day or Independence Day holiday, shall be compensated in addition to their regular pay at time and one-half for the hours worked. Field officers who are scheduled to work on a premium pay holiday may choose to work that day or request the day off, as law enforcement activities permit.

Section 4.

The normal workday for Traffic Safety Officers, Police Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be eight or ten consecutive hours. The normal workday

for Police Sergeants shall be between eight and eight and one half consecutive hours or ten and ten and one half consecutive hours. The normal workday for all other employees, shall be eight or ten consecutive hours. Whenever an employee requests and is approved by the supervisor to work a split shift they shall be allowed one hour of their work day scheduled for travel. The normal workday may be lengthened or shortened as law enforcement activities require. Overtime will be paid in accordance with Section 1 of this article.

Section 5.

All employees shall be allowed two 15-minute breaks with pay per work day. The parties agree to maintain the current practices for scheduling and length of meal periods. Those employees scheduled for a (9) nine hour day shall receive a (60) sixty minute unpaid meal period.

Section 6.

The shifts in effect on the effective date of this Agreement shall be continued if at all possible, provided that if the City is required or desires to change such shifts, it shall make every reasonable effort to notify the F.O.P. in order to allow the F.O.P. to have input concerning such changes.

Section 7.

When an employee appears for a Professional Standards interview or Accident Review Board hearing which occurs outside of the employee's normal working hours, such employee will be paid for a minimum of two hours. However, if the interview time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two hour minimum. Employees shall be paid for all required fitness for duty examinations which occur outside of the employee's normal working hours.

Section 8.

When an employee is called into work for any reason, other than Professional Standards interview, Accident Review Board hearing or a fitness for duty examination, outside of the employee's normal working hours, the employee will be paid at the overtime rate for a minimum of two (2) hours, regardless of his/her pay status at the time. However, if the call in time is in conjunction with the beginning or ending of a normal working shift, only the extra time worked will be paid, in lieu of the two (2) hour minimum.

ARTICLE 7

COMPENSATION

Section 1. General Statements

(a) The City will continue to write job requirements for each position classification within the bargaining unit and will initially determine the classification of each position in accordance with the classification plan presently in effect. Modifications in any classification will be delivered to the F.O.P. in advance of such modification being made to allow input concerning such modification, which will be given due consideration. The City will meet and confer with the F.O.P. before adding or deleting classifications from the bargaining unit.

(b) The minimum rate of pay for a class shall be paid on the original appointment to the class, provided that (1) the appointment to a higher rate within the wage range for a class may be authorized by the City when it is impossible to recruit qualified persons at the minimum rate for the class, or in recognition of exceptional qualifications of a candidate; and (2) any employee who is promoted shall be advanced to the nearest step in the higher wage range that represents an hourly increase in pay of at least 3.0% over pay the employee was receiving prior to the employee's promotion. Employees who are promoted, demoted or advanced in pay, their anniversary or merit date shall remain the same throughout his/her career.

The Police Recruit classification is established at one range lower than Police Officer. Police Recruits are eligible to participate in one of the health insurance programs offered by the City and receive paid holidays. Police Recruits, in the course of any investigation or a situation involving possible disciplinary action, shall be entitled to F.O.P. representation. A termination of a recruit or probationary employee may not be grieved. Upon satisfactory completion of recruit training, recruits will be advanced to the position of Police Officer and will be eligible for all benefits afforded full-time employees.

An exception is made for full-time employees of the City who become Police Recruits. Full-time employees may continue to participate in the life insurance program, in addition to health insurance and receiving paid holidays. While the employee is in recruit training, use of prior accrued leaves is not permitted, nor will the recruit accrue additional leave. Prior accrued leaves and seniority for accrual of longevity benefits (vacation, sick leave and longevity pay) will be reinstated upon appointment to Police Officer.

(c) The rates of pay for employees subject to this agreement are shown in Appendix B, Appendix C, and Appendix D of this contract. Rates of pay reflect the base rate for each employee.

(d) Employees assigned the duties of a higher position shall be compensated at the rate of pay for the higher position for those hours worked if the employee is so assigned a period of time 20 consecutive work days or more in any 12-month period. This provision does not apply to employees on probation.

Section 2. Rates of Pay.

The following increase in wages will take effect for the following years:

2012: 1.5% across the board increase effective July 7, 2012

2013: 1.5% across the board increase effective December 22, 2012

2014 1.5% across the board increase effective December 21, 2013

(a) The rate of pay for Police Recruit is one range less than the beginning step of Police Officer, Range 722, step A.

(b) After an employee has satisfactorily completed recruit training, the employee shall be advanced to the position of Police Officer and shall have a twelve-month probationary period.

(c) All employees covered by this agreement shall have fifteen (15) pay steps. Within range increases from Steps A through O shall be based on satisfactory performance and after 12 months of service in grade. Advancement may be granted after exemplary service on the Department Director's recommendation and with the approval of the City Manager. The denial of a step increase shall be considered a grievable matter for commissioned personnel.

(d) Bilingual pay in the amount of $10.00 per hour for translation, paid in 15 minute increments, in addition to their base hourly rate shall be paid to each officer designated by the Chief of Police. The Chief shall determine which languages, other than English, are necessary to conduct police operations and how many officers will be eligible to receive bilingual pay. An initial test shall be established and administered by the Chief of Police or the Chief's designee to determine competency and eligibility, but only those designated by the Chief of Police shall receive such pay.

(e) Employees in grant-funded special assignments, rather than grant funded positions, shall be paid at the overtime rate for all time working those assignments unless prohibited by the grant.

Section 3. Longevity Pay.

In consideration of long and faithful service, the City Manager shall authorize payment of longevity pay to the employees every pay period in addition to their base pay. Employees will become eligible for longevity pay upon the completion of six (6) years total accumulative service

with the City. The amount of this pay to employees shall not exceed $2.00 times the total years of accumulative service per month, e.g., $2.00 times five years of service equals $10.00 monthly longevity pay. Upon the completion of eleven (11) years total accumulative service with the City, the amount of pay shall be increased, not to exceed $5.00 times the total years of accumulative service per month, e.g., $5.00 times twelve years of service equals $60.00 monthly longevity pay.

Section 4. Educational Differential.

Commencing the first full pay period after the approval of this agreement, Police Officers, Police Detectives, and Police Sergeants shall receive educational pay in the amount of $110.00 per month for a baccalaureate or $135 per month for a masters degree from an accredited college or university. For commissioned officers hired after 12/27/86, a degree must be in Administration of Justice, a related field, or meet the requirements of the department.

Academic degrees earned must be from a degree-granting institution which has been accredited by the American Association of Collegiate Registrars and Admissions Officers and certified as eligible by Human Resources.

Commissioned officers are not eligible for tuition reimbursement from the City of Wichita.

Section 5. Shift Differential.

(a) Employees in the bargaining unit required to work 2nd, 3rd or 4th shift will receive shift differential pay at the rate of $.75 per hour in addition to their base pay.

(b) Differential pay will be determined by the shift starting time;

1st Shift:	From 6:00 a.m.	To 10:00 a.m.
2nd Shift:	From 10:00 a.m.	To 5:00 p.m.
3rd Shift:	From 5:00 p.m.	To 11:00 p.m.
4th Shift:	From 11:00 p.m.	To 6:00 a.m.

Section 6. Specialty Duty Pay.

Specialty Duty Pay of $60 per pay period will be provided to officers in the positions listed below. However, an officer that meets more than one of the criteria shall be paid a total of only $60 per pay period (an officer is not eligible for more than one specialty pay).

1. those officers who are assigned to the Bomb Unit;

2. those officers who are assigned as Canine Officers;

3. those officers who are assigned to the SWAT Team;

4. those officers who are Clandestine Lab Processors;

5. those officers assigned to the Air Section

7. those officers designated as hostage negotiators.

Section 7. Stand By and/or Call Back.

(a) All employees required to carry a pager or any communication device while off duty and not on standby, who are called back to duty, shall not be subject to disciplinary action, transfer of assignment or changing of days off unless such non-availability becomes detrimental to the employee's ability to perform his/her duty assignment or is in direct conflict with the rules and regulations of the department.

(b) Any employee placed on standby for the purpose of being called back to duty and required to remain at home or at a specific place shall be compensated at the rate of time and one-half for all actual duty time or restricted time.

Section 8. Field Training Officer and Field Training Sergeant Compensation.

The City agrees to pay each officer who is designated as a Field Training Officer by the Chief of Police an additional $1.25 per hour while actually assigned to the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall occur only during the regular training cycle or remedial training cycle established for such new officers and/or during the time Field Training Officers are assigned to the Training Bureau. The City agrees to pay each Sergeant who is designated as a Field Training Sergeant $1.15 per hour while actually assigned to supervise the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall only occur during the regular training cycle or remedial training cycle established for such new officers by the Chief of Police and/or during the time Field Training Sergeants are assigned to the Training Bureau.

Section 9. Court Appearance.

Employees may elect one of the following two options when subpoenaed for Municipal Court:

1. Employees may contact the Court Liaison Officer before their scheduled court time and leave a pager, cell or home phone number where they can be reached for two (2) hours after their scheduled court time. If employees are not contacted by the Court Liaison Officer within two (2) hours after their scheduled court time, they will be released from their subpoena.

2. Employees may contact the Court Liaison Officer thirty (30) to sixty (60) minutes after their scheduled court time. At that time, employees will be released or not released from their subpoena. If employees are not released from their subpoena, they may:

    a. Agree to call-back at a certain time;
    b. Ask the Court Liaison Officer to call back at a certain time; or
    c. Agree to report to Court.

Off-duty employees will have fifty (50) minutes to report to Court starting from the time they are ordered or agree to report.

Employees may use the time awaiting a determination from the Court Liaison Officer as they choose.

Compensation

Employees will be paid a minimum of three (3) hours for any court appearance unless the court appearance is in conjunction with the beginning or ending of their shift and then the employee will be compensated for the actual amount of time spent on the court appearance. If the employee was not in transit to court or at court for a minimum of three (3) hours then one of the three (3) hours of compensation must be taken as compensatory time in accordance with Article 6, Section 1. If the employee is at their maximum allowable hours of carry over, then they will be compensated for a minimum of two (2) hours after they are ordered to appear.

Section 10. Rotation Pay – Shift Differential.

Within the investigations division there are positions for police officers that are limited in duration and are designed to allow officers from the field services division to learn about the investigative function by spending time working in the investigations division. These positions are

considered rotation investigative assignments. While officers are assigned to these positions, they will continue to receive shift differential paid in their previous assignment. This provision will not apply to officers temporarily assigned to the investigations division for other reasons (i.e. administrative, light duty, etc.)

Section 11. Annual Fitness Test.

All employees will be given the option of taking an annual fitness test. Those individuals who take and pass the test will receive a $100.00 bonus for each year in which they pass the test. The requirements for the test will be recommended by a joint committee of two members from the F.O.P. and two members from police administration. The committee's recommendations will be subject to approval by the Chief of Police.

Section 12. Canine Officers

Canine Officers shall work a nine (9) hour work day, with the tenth (10th) hour of each scheduled work day being devoted to the training, care and maintenance of their canines. When canine officers are on paid leave they shall be charged for nine (9) hours of leave time per day but shall be paid for ten (10).

DRAFT

ARTICLE 8

CHECKOFF AND PAYROLL PROCEDURE

Section 1.

Whenever duly authorized by any employee on a form or forms appropriate for such purpose and consistent with the regulations established by the Human Resources Department of the City, payroll deductions shall be made and paid in accordance with such form or forms for any or all of the following purposes:

(1) Donations to the Friendship Fund;

(2) Premiums for employee health, dental and life insurance benefits;

(3) Police Benefit Fund for commissioned police officers only, as defined by the Benefit Fund by-laws

(4) Deferred Compensation;

(5) Employee Organization Dues; and

(6) Deduction to the Wichita Federal Municipal Employee's Credit Union.

Section 2.

The authorization form or forms will include a provision that an employee may terminate the deduction for F.O.P. dues upon written notice to the City and the F.O.P. during the months of March and September.

ARTICLE 9

EMPLOYEE BENEFITS AND ALLOWANCES

Police Recruits are not eligible for any employment benefits except health insurance. Benefits and allowances become effective when the Police Recruit is classified as Police Officer.

Section 1. Retirement and Pension Funds.

Employees shall come under the retirement systems as set forth by the City of Wichita in effective ordinances and charter ordinances. The bargaining unit employees agree to be bound by any changes in the retirement systems that are approved by a majority vote of all employees covered thereunder.

(a) The City will post pensionable pay categories on the City web portal so to provide information about the pension benefits to employees and provide contact information so that employees can contact the Board of pensions to obtain any information needed regarding their pensions.

(b) If the Pension Board revokes the disability pension of any former bargaining unit member for the reason that the member is no longer disabled, the department must rehire that member at the rank, pay step and seniority that member held at the time of his retirement, except that seniority shall include time spent in retirement.

(c) In order to be eligible for rehire, pursuant to paragraph (b) above, the retiree must:

(1) Successfully complete the application process; and

(2) If a disciplinary investigation was pending at the time he/she was awarded a disability pension, the retiree must have cooperated in that investigation. Such retirees shall retain all of their grievance rights under this contract at the time of the imposition of any discipline.

Section 2. Medical and Hospitalization Insurance.

The City will extend to all employee groups the same health insurance program(s) available to all full-time City Employees. For those participating in the City plan, the City will pay 80% of the health insurance premium of the lowest cost plan offered by the City. The employee will pay 20% of the health insurance costs of the lowest cost health insurance plan offered by the City and additional costs of any other health plan the employee group selects. Participation in the health insurance program is optional with each employee.

Section 3. Life Insurance.

The City agrees to provide a group life insurance in the amount of two times the employee's base annual salary, rounded up to the next higher thousand (up to a maximum of $150,000). The City and employees shall share equally in the cost of the life insurance plan. The life insurance program is optional.

Section 4. Wichita Police Benefit Fund Association.

The City recognizes the existence of the Wichita Police Benefit Fund Association, and recognizes the right of all commissioned officers to belong to the same, subject to the by-laws of the Wichita Police Benefit Fund Association.

Section 5. Automobile Insurance.

The City shall provide liability insurance protection for each employee covered by this Agreement during authorized operation of a City vehicle or equipment. Any legal representation shall be provided by the insurer at no expense to the employee or pursuant to Section 2.62.100 et. seq. of the City Code. The department will complete State accident reports in officer involved accidents only when required by State reporting criteria.

Section 6. Uniforms and Equipment.

(a) The City shall furnish or reimburse an employee for all required equipment and initial issue of uniforms the employee is required to possess by virtue of the employee's employment with the City. Replacement or renovation of issued leather equipment, except shoes, and boots, which have become unserviceable through fair wear and tear shall be done at no cost to the employee's uniform and equipment allowance. Replacement of bulletproof vests, which have become unserviceable through fair wear and tear, or at the expiration of the manufacturer's warranty, shall be done at no cost to the employee's uniform and equipment allowance.

(b) Police Officers, Police Detectives, Police Sergeants, Traffic Safety Officers, Crime Scene Investigators, Warrant Officers and Station Clerks shall be allowed a clothing allowance up to a maximum of $700 in department credit or vouchers in accordance with department policy.

(1) Uniformed employees may expend up to one-half of the uniform and equipment allowance for civilian attire each year.

(2) Police Detectives may expend their total uniform and equipment allowance for either uniform items or civilian attire according to individual requirements.

(3) No cash payments or carry over credit will be given for any under expended portion of the annual uniform and equipment allowance.

(4) Police Officers who are in assignments which are expected to last at least four (4) months and which require civilian clothing shall be allowed to expend their total uniform and equipment allowance for either uniform/equipment items or civilian attire according to individual requirements.

(5) "All employees assigned to the Special Weapons And Tactics (SWAT) team, Clandestine Lab, or Explosive Ordinance Disposal (EOD) Unit shall be allowed a one time expenditure of 75% of their annual uniform and equipment allowance for the purchase of personal SWAT team, Clandestine Lab, or Explosive Ordinance Disposal Unit related equipment not issued by the City. Thereafter, SWAT team, Clandestine Lab, and EOD Unit members shall be allowed to spend up to a maximum of 50% of their annual uniform and equipment allowance on personal SWAT team, Clandestine Lab, or EOD related items not issued by the City."

(6) Officers may use the full uniform and equipment allowance at any time from January 1 through November 30 of each year.

(c) The City shall repair or replace uniforms, including leather goods, civilian attire, and prescription eyewear damaged or destroyed in the line of duty. The employee who suffers the damage to equipment described above will submit a claim with a complete report of circumstances surrounding the incident, including the police case number, to the Commander of the Support Services Division through channels who will rule on this claim in writing within five days. Under no circumstances will the City be responsible for damages to any equipment when it is determined that the employee was negligent or that the damage was not the result of an in-line-of-duty police activities.

(d) While on duty in uniform or plain clothes, any member of the F.O.P. may wear the F.O.P. pin sold by the F.O.P. Grand Lodge to its members. The pin shall be worn on the left front pocket flap of the uniform.

(e) Employee retiring from service may retain their badge provided they agree that the badge will be sealed or encased preventing its official use. The retiring employee may pay for the cost of the badge from his/her uniform allowance.

(f) Employees retiring from service, except for medical disability for psychological reasons, may be able to purchase their duty weapon at the fair market value. In order to purchase the weapon, the purchase must be in accordance with all applicable laws, including sales, waiting periods and licensing. A qualified employee may expend his/her unspent clothing allowance to purchase their duty weapon.

Section 7. Travel and Business Expense.

Employees shall be reimbursed for all authorized travel and business expense in accordance with the City's administrative policies and regulations covering such advancements and reimbursements.

ARTICLE 10

LEAVES OF ABSENCE

Section 1. General Statements.

(a) Leaves of absence with pay include: Vacation, sick (including maternity), well-day, injury, emergency, civil and other leave with pay. Leaves of absence without pay include: Sick (including maternity), educational, military and other leave without pay.

(b) All full-time employees who have completed recruit training and are represented by the F.O.P. earn benefits.

(c) An employee must be in pay status while on leave of absence to accumulate benefits, except that seniority credit may be accrued while on military leave without pay. When an employee is promoted, demoted or transferred, all sick and vacation leave remains to the employee's credit and is transferred with the employee.

(d) Vacation leave will be earned on hours in pay status, exclusive of overtime, and will be calculated at the time the payroll is processed. Base hours for computing vacation leave are 2,080

per year for employees of the unit except for Police Sergeants which is up to 2,210 per year. All requests for leave of absence shall be made in writing in advance of the beginning date to the immediate supervisor, except that requests for sick leave, injury leave and emergency leave shall be made pursuant to the requirements of the sections dealing with those respective leaves. Leave, with or without pay, is to be reported on the Employee Time Record in actual hours of work and actual hours of leave.

Section 2. Annual Vacation Leave.

Employees entering the service of the City earn vacation leave on the basis of credited full-time employment. Police Recruits do not earn vacation leave.

(a) The rate at which vacation leave is earned is determined by the start-work date or adjusted start-work date, except:

> Employees with prior creditable employment are not eligible to earn vacation leave based on their adjusted start-work date until after completion of two years reemployment.

(b) All requests for vacation leave will be approved by departmental seniority within the Police Department.

(c) Vacation leave for employees of the unit is earned at the following rates:

Years of Service	80 Hour Employees Hours per Year	Hours Accrued per Pay Period	85 Hour Employees Hours per Year	Hours Accrued per Pay Period
Less than 5	96	3.6923	102.0	3.9231
5	104	4.0000	110.5	4.2500
7	112	4.3077	119.0	4.5769
8	120	4.6154	127.5	4.9038
9	128	4.9231	136.0	5.2308
10	136	5.2308	144.5	5.5577
12	144	5.5385	153.0	5.8846
14	152	5.8462	161.5	6.2115
16	160	6.1538	170.0	6.5385

18	168	6.4615	178.5	6.8654
20	176	6.7692	187.0	7.1923
25	200	7.6923	212.5	8.1731

(d) Vacation leave may not be taken in advance of vacation earned, nor prior to completion of six months satisfactory service. Employees must have satisfactorily completed six months of their probationary appointment before being eligible to take vacation or be paid for terminal vacation.

(e) An employee who goes on military leave for extended active duty or is terminated will be paid for any unused vacation leave by adding the total sum due to the employee's last payroll check. In the event of an employee's death, any vacation pay due will be included in the final payroll check.

(f) Vacation leave is scheduled in the department according to the policies established by the Department Director. Vacation may not be taken in excess of the hours appearing on the payroll stub nor in increments of less than thirty minutes. The Department may not cancel a vacation which has been scheduled unless the emergency mobilization plan is in effect.

(g) Employees are allowed to accumulate and carry forward each year 240 hours (255 hours for Sergeants) of vacation leave. Employees will be required to use or lose vacation earned in excess of 240 hours (255 hours for Sergeants) before the end of the pay period in which the anniversary of their full-time (i.e., not limited) employment date occurs.

(h) An employee who is called back to duty or subpoenaed to appear in court on police business during the employee's vacation leave shall be granted additional vacation leave equal to one day for each full day or partial day of vacation leave actually lost due to travel and appearance or duty time. At the option of the employee, the employee may receive pay at straight time for those days rather than taking the days off. In addition, the City shall make and pay all necessary travel arrangements and expenses for the employee to report as required and to return to employee's vacation. If the employee has not received personal service on a subpoena from the court and the employee is out of state on authorized vacation and is called back to court, the employee will receive pay at the rate of time and one half for time actually spent in court with a two hour minimum, regardless of any other leave time in the pay period, in addition to replacement of vacation time for every day or partial day actually lost due to travel and appearance or duty time.

Section 3. Sick Leave.

(a) Accrual. Upon appointment to the position (except Police Recruit), employees shall accrue sick leave at the rate of 1.8462 hours per pay period or 48 hours per year (1.9615 hours per pay period or 51 hours per year for sergeants) for the first five years of creditable service. Beginning year six and through year fifteen of creditable service, sick leave will be accrued at the rate of 3.6923 hours per pay period or 96 hours per year. (3.9231 hours per pay period or 102 hours per years for sergeants). Beginning year sixteen of creditable service, sick leave will be accrued at the rate of 4.3077 hours per pay period or 112 hours per year. (4.5769 hours per pay period or 119 hours per year for sergeants).

Employees with prior creditable service are eligible to accrue sick leave benefits based on their adjusted start work date after two years of continuous service from the date of rehire.

(b) Sick Leave Use. Sick leave may be used for personal illness, off-the job injury, dependent illness including paternity leave, and enforced quarantine.

(1) Dependent Illness. Sick leave may be used for illness of members of the employee's immediate family. Immediate family is defined as spouse, children (including stepchildren) parent, and any relative living in the employee's home. In no event may the employee charge in excess of forty-eight (48) hours per payroll year for dependent illness.

(2) Enforced quarantine in accordance with community health regulations.

(3) A probationary employee will not be paid for accrued sick leave used during the first six months of service. Payment for accrued sick leave used during the first six months will be made the pay period following completion of six months of satisfactory service. Payment for sick leave for other than probationary employees is in accordance with established policies previously defined. The accumulation of sick leave is unlimited.

(c) When taking sick leave, an employee shall give notice to a supervisor by telephone or messenger thirty minutes prior to the employee's scheduled time to report for duty. Upon return to work, the employee shall file a report on a form furnished by the City stating the reasons for the absence. When an employee has been on sick leave for five (5) consecutive work days, the City may require the employee to be examined by a physician it designates. The City may require a physician's statement anytime sick leave abuse is suspected. The burden of proof rests with the City to show abuse in the grievance process.

(d) A leave of absence shall be granted for maternity upon request. Such request must be presented in writing to the employee's immediate supervisor, setting forth a date such leave is to begin, as soon as that date can be determined by the employee and the employee's physician. Maternity leave shall be charged against accrued sick leave, and the Department Director or the Human Resources Director may require the employee to be examined by a physician of the City's choice. If maternity leave extends beyond the employee's accrued sick leave, leave may be granted in accordance with policies governing sick leave without pay.

(e) An additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants) shall be granted to an employee who has completed the previous payroll year as a full-time employee and who did not report more than 24 hours of sick leave, or up to 25.5 hours for Police Sergeants, in the preceding payroll year. Any employee who completed the previous payroll year beginning December 16, 2006 as a full-time employee and who did not use any sick leave hours during the payroll year will receive ONE additional day of leave (8 hours for 40 hour, 5 days per week employees, or 10 hours for 40 hour, 4 days per week or up to 10.5 hours for Police Sergeants). Well day leave must be taken in increments of not less than four hours with prior approval of the immediate supervisor. Well day leave is granted the second pay period following the payroll year, is noncumulative and is not charged against accrued leaves.

(f) An employee shall be eligible for sick leave without pay when the employee has exhausted all regular sick leave and vacation leave, provided the maximum sick leave without pay shall not exceed 60 calendar days. If an employee has used the employee's vacation leave on account of sickness, the Department Director may grant a leave of absence without pay as provided in Section 13 of this article.

(g) Sick leave may also be used by an employee under the circumstances specified in Sections 4 of this article.

Section 4. Injury Leave.

(a) During recruit training the City will pay authorized Workers Compensation benefits to a Police Recruit injured during training.

(b) After appointment to Police Officer, the City will pay benefits to the injured employee over and above the authorized Workers' Compensation benefits sufficient to allow the employee to receive up to the amount of the employee's full pay check during the first 90 days of disability. For purposes of this section, and the Kansas Workers' Compensation Act, all Wichita Police Officers who are injured in the line of duty, or who are injured while taking police action in an off-duty capacity, and all officers who, while off-duty, perform security work or police services at any special event

held on public property within the city limits of Wichita, for which requires a special events application, and who are injured while performing police action, shall be considered employed by the City of Wichita, Kansas at any time during which they sustain any injuries while performing police action, and shall be entitled to all the benefits and protections of this section, as provided by the Kansas Workers' Compensation Act.

(c) After 90 consecutive days, the employee will be paid according to the terms of the Workers' Compensation Act until released to return to work and use sick leave and/or vacation leave as needed above the Workers' Compensation benefit to allow the employee to receive a full pay check.

(d) All injuries, including heart and lung disease, will be considered and defined in accordance with the Workers' Compensation Act of the State of Kansas and the interpretive cases arising thereunder. The City will provide all employees who file a workers' compensation claim with a fact sheet regarding their rights and the City's responsibilities under State workers' compensation laws.

(e) Recurring leave of absence related to a previous injury shall be considered one and the same injury if the injury occurs within 365 days, subject to administrative analysis and diagnosis of the injury reporting physician. However, if recurring leave relating to a previous injury is required after one year (365 days) from date of release by the physician, such leave will be treated as a new injury case.

(f) The Department Director shall provide all personnel in the F.O.P. with a list of physicians certified by the City to handle cases coming under the Workers' Compensation Act, herein referred to as a "certified physician." In the event of noncritical injury, the department shall refer the employee to a certified physician for medical attention. In the event of critical injury, appropriate arrangements for emergency treatment shall be made and a certified physician shall be called to be in charge of the case unless such action may result in a delay that would be detrimental to the injured employee, in which case the department shall authorize the most expeditious care and treatment possible.

(g) Any employee who suffers a work related injury subject to this Section and who consults with a physician without authorization will receive reimbursement for the unauthorized consultation as allowed by the Kansas worker's compensation statutes

(h) Notwithstanding the foregoing, if a Police Officer, Police Detective, or Police Sergeant sustains, in the line of duty and not during secondary employment, (1) any injury which is peculiar to police work or (2) any injury while performing a function which is peculiar to police work, which

causes the employee to be unable to perform the employee's duty, the employee shall continue to be paid by the City on the same basis as the employee was paid before the injury with full benefits and no deduction from any accumulated leave or overtime accumulation during the time the employee is unable to perform the employee's duty as a result of the injury, but not longer than one year from the initial date of injury.

At any time during the period for which continuing compensation is required by this provision, the City may order, at the expense of the City, medical examination of the injured person to determine the degree of disability. During this period of disability, the injured person shall not be employed in any other manner with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this provision from the time such employment begins. Any salary compensation due the injured person from Workers' Compensation, or any salary due the employee from any type of insurance which may be carried by the City, shall revert to the City during the time for which continuing compensation is paid to the employee under this provision.

(i) Any use of the FMLA during injury leave will be at the sole discretion of the employee. If the employee is unable to perform the employee's duties after one year from the date of the initial injury, then the employee may be placed on FMLA leave by the employer.

Section 5. Bereavement Leave.

(a) Eligibility. In the event of a death in an employee's immediate family, the employee may be allowed a leave of absence with pay up to a maximum of five (5) work days within the two week period immediately following the death of an immediate family member. Immediate family member is defined as an employee's spouse, children, step-children, parents, stepparents, state-approved foster child, or any relative living in the employee's home. For the death of a father-in-law, mother-in-law, brother, sister, grandparents, grandchildren, daughter-in-law, or son-in-law the employee may be allowed a leave of absence up to a maximum of three (3) work days to be taken within the two week period immediately following the death of any of these persons. This leave must be approved by the Division Commander and is not charged against any leave accumulation. In the event the employee must travel out of state, the employee shall be allowed up to two additional days of leave, chargeable to the employee's vacation accrual or sick leave accrual.

(b) An employee who is unable to work because of a death in the immediate family must notify a supervisor by telephone or messenger, prior to the employee's scheduled time to report.

Section 6. Educational Leave.

Educational leave of absence without pay may be granted to an employee not to exceed 12 months. Course work shall be related to a law enforcement career. Requests shall be submitted to the Department Director in writing, and must be approved on the basis of the City's policy.

While on educational leave, without pay, no additional seniority is accrued.

Section 7. Professional Conferences and Meetings.

(a) Leave with pay may be granted in accordance with City policy to attend professional conferences and meetings, or to visit other cities in the interest of the City.

(b) It is acknowledged by both parties to this agreement that the role of professional standards investigators is to serve as fact finders regarding internal administrative investigations. To this end , these personnel are expected to have a high level of training regarding such investigations. Therefore, all investigative personnel assigned to this bureau will attend an applicable internal affairs training conference (such as labor relations information systems or Thomas & Means), within the first six (6) months of their assignment unless exigent circumstances exist. All investigative personnel will also attend the subsequent training seminars at an interval not to exceed 24 months unless exigent circumstances exist. The F.O.P. agrees that it will pay one-half (1/2) of the expenses for such training incurred by active members of the F.O.P.. All personnel assigned to the professional standards bureau will attend the shift steward training hosted by the F.O.P.

(c) Whenever possible any employee upon promotion to the rank of Captain shall attend immediate shift steward training class hosted by the F.O.P. that falls on the date following that promotion unless exigent circumstances exist.

Section 8. Jury Duty.

Upon receipt of an order requiring an employee to report for jury duty, the order will be shown to the immediate supervisor who shall receive the required permission from the Bureau Commander . An employee shall receive the employee's regular hourly rate for all scheduled work hours lost when the employee is required to serve as a member of a jury. Fees received by an employee while serving on a jury shall be turned over to the City Treasurer. An employee will not be required to return money received as reimbursement for travel and meals while serving on jury duty, and an employee is not required to return money received while serving on jury duty on regular days off, holidays or vacation.

DRAFT

Section 9. Court Appearance in Official Capacity.

Court appearance in an official capacity is considered working time. During an employee's regular working hours, no leave of absence is necessary for such court appearance. If such court appearance is during off-duty hours, the employee shall be compensated in accordance with Article VI, Section 6. In either event, when the employee is compensated by the City for court appearance, the employee shall turn over to the City Treasurer any witness fees received.

Section 10. Court Appearance in Personal Matters.

If an employee is involved in court as a party in a case, the employee may be granted a leave of absence without pay or, at the employee's option, may have such time off charged to accrued vacation leave.

Section 11. Military Leave.

Requests for military leave will be handled in accordance with Title 38, U.S. Code, Section 2021 et. seq..

Section 12. Time Off for F.O.P. Business.

(a) If requested by the F.O.P. President, the F.O.P. Vice-President and F.O.P. President shall be assigned to the day shift with Saturday and Sunday off during their term in office. If this was requested, the City may return those officers to their original shift upon completion of their term in office. There shall be one chief lodge steward assigned to each bureau and one assigned to investigations/support. Whenever a vacancy occurs in one of the those chief lodge steward positions, the department will grant the F.O.P.'s request to transfer individuals in order to fill any such chief lodge steward vacancy. The department will transfer chief lodge stewards to those bureaus where they are needed.

(b) The F.O.P. President may appoint members of the bargaining unit who will be given time off with pay to conduct contract negotiations. The maximum number of collective hours of pay the City will provide for contract negotiations will be 300 hours. Nothing in this Memorandum of Agreement shall prohibit the F.O.P. or the City from being allowed to have outside assistance in contract negotiations.

(c) The President, Vice-President, Secretary, Treasurer and all Chief Lodge Stewards of the F.O.P. shall be granted time off with pay to conduct F.O.P. business upon request to their supervisors. Such requests shall not be unreasonably denied. In the absence of all such officers, the President may appoint a member to serve in their place during their absence.

(d) F.O.P. representatives shall record on an authorized form only the amount of time used for F.O.P. business in excess of thirty (30) minutes in an eight (8) hour day. Said form shall be

signed by the F.O.P. representative and a supervisor. The supervisor shall forward the original form to the Chief's office.

(e) Upon approval of the Police Chief, or the Chief's designee, an F.O.P. representative may attend squad meetings periodically during negotiations to brief represented employees on the status of negotiations. Such briefings will not exceed ten minutes in length and will be confined to a factual report on the status of negotiations.

(f) Members of the F.O.P. Lodge #5 Executive Board, who are city employees, and on duty shall be granted reasonable time to attend the regular Lodge meeting each month, and the regular Executive Board meeting each month. A maximum of four (4) Shift Stewards who are working the shift of the regular Lodge meeting each month shall be granted reasonable time to attend the meeting, if the staffing permits. Anyone attending these meetings while on duty shall be subject to call from the Emergency Communications Dispatchers or any Police Supervisor at any time during the meeting. Lists of the Executive Board Members and the Shift Stewards will be provided to the Chief of Police every six (6) months or when a change in the previous list occurs. The Chief will also be given written notice at least fifteen (15) days in advance of such meetings.

Section 13. Other Leave of Absence.

The Department Director may grant leaves of absence without pay to any employee up to 30 calendar days for any personal matter or emergency for good cause, except, such leave of absence without pay will not be granted until all vacation leave is exhausted.

ARTICLE 11

SENIORITY

Section 1.

Police Officers, Station Clerks and Warrant Officers shall serve a probationary period of 12 months. Traffic Safety Officers and Crime Scene Investigators shall serve a probationary period of 6 months. They shall have no seniority rights during this period, but shall be subject to all other clauses of this Agreement. All employees who are not laid off or discharged during the probationary period shall be known as full-time employees, and all employees will be given an equal opportunity to become full-time employees. When an employee acquires seniority, the employee's name shall be placed on the seniority list established by the Department Director. "Departmental seniority shall be measured by service in any bargaining unit position covered by this agreement. Members of the bargaining unit shall not receive past service credit or other

seniority credit for service outside of the bargaining unit." If length is equal, then time in grade shall control. If time in grade is equal, then relative seniority shall be determined by the lowest department I.D. number. Seniority for Sergeants will be determined by time in grade.

Section 2.

The seniority list shall be made current at the end of each quarter. As soon as possible thereafter, the City will make available for review at least one copy at each police facility with a copy delivered to the F.O.P.

Section 3.

All lay-offs shall be in inverse order of seniority of classification by Division. Laid off employees shall be recalled in order of seniority.

Section 4.

Seniority shall be broken if: (1) the employee quits; (2) the employee is properly discharged; (3) the employee is laid off and not rehired within 18 months; or (4) the employee is permanently disabled.

Should an employee be re-employed and covered by the F.O.P. Agreement, the employee will regain prior service seniority after being re-employed for one (1) complete year.

Section 5.

None of the provisions of this article shall be permitted to conflict with any obligation of the City under any Federal or State law concerning military service.

Section 6.

Except as provided in Section 1 of this Article an employee transferring into the bargaining unit from some other City department shall retain the employee's accumulated seniority for purposes of vacation accumulation, sick leave accumulation and longevity pay.

Section 7.

Days off and vacations shall be determined by department seniority relative to all employees covered by this Agreement within the same work unit.

Section 8.

An employee's days off may be subject to change if the employee fails to meet reasonable minimum performance standards established in writing by the Chief of Police or Division Commander. A change in days off made pursuant to this section shall be subject to Article 14.

Section 9.

Upon being transferred into a different assignment, an employee may invoke seniority, as defined in section seven (7) of this article, only when an opening in days off becomes available.

ARTICLE 12

PROMOTIONS AND TRANSFERS

Section 1. Promotional Policy

The parties hereby incorporate by reference the current department promotion policy for the ranks of Detective, Sergeant and Lieutenant, with the following modifications.

a. All promotion eligibility lists must be posted and the department must promote from the lists as follows:

1) For the detective list, only officers ranking in the top fifteen percent (15%), or a minimum of five candidates, whichever is greater, will be considered for promotion. In the event there are less than five eligible candidates on the promotion list, all will be considered for promotion.

2) for the sergeant and lieutenant lists, only detectives/sergeants ranking in the top twenty percent (20%), or a minimum of three candidates, whichever is greater, will be considered for promotion. In the event there are less than three eligible candidates on the promotion list, all will be considered for promotion.

b. If a candidate is passed over for promotion, the City shall inform the employee in writing, and in person, of the specific reasons for that decision, within thirty (30) days. The City will also give specific items for suggestion that the employee can work on to improve his/her opportunity for promotion.

1) All letters of reason for being passed over, which are issued to the employees shall contain the following statement for the employee to sign: I request that a copy of this letter be sent to the F.O.P..

____YES ____NO

c. The Interview Board shall be composed of a panel consisting of six (6) individuals. At least one (1) panel member will be from the rank being sought. The candidate's score will be given to them via email within twenty-four (24) hours of the conclusion of the interview.

The parties acknowledge that the procedures and requirements set out in the current policy cannot be modified or changed in any manner without the express written agreement of the City and the Lodge. In the event a Crime Scene Supervisor position comes open, the City of Wichita promotional process will be followed in selecting a suitable candidate to fill the position. Current Crime Scene Investigators will have first consideration but the Chief of Police reserves the right to open the process to candidates outside of the department.

Section 2. Notification of promotion or transfer.

When an employee is promoted, or transferred, the employee will be notified in writing of such transfer or promotion at least seven days in advance of the promotion or transfer. In the event a transfer must be made due to extenuating circumstances (requiring a case-by-case review), the seven day notice may not apply. Transfer is defined as a non-emergency shift change, division change or assignment change which can be reasonably expected to last for a period of one month or longer.

Section 3. Posting of vacancies.

Vacancies in the Field Services Division and the Traffic Section shall be posted for seven (7) calendar days to allow personnel to apply to the respective Bureau Commanders where the vacancy exists. Bureau Commanders shall consider the needs of the department, the qualifications, work history, and seniority of the applicants during the selection process. Any special considerations or preferences of personnel to fill the vacancies shall be listed at the time the position is advertised.

Section 4. SCAT, CP & SRO

There will be an bi-annual (April and October) selection process for each specialized assignment, (SCAT, Community Policing and School Resource Officers). For all other specialized assignment there shall be a selection process as needed. This list will remain in effect for one full year, for purposes of this section; specialized assignments are anything except basic patrol, and Sergeant positions. There will be standardized grid matrix for specialty units.

Section 5. Temporary assignments.

No employee may be placed in a temporary assignment for more than ninety (90) days. On the ninety-first day, the position shall be considered vacant and must be filled in accordance with this agreement.

ARTICLE 13

DISCIPLINARY PROCEDURES

Section 1. Definitions

If an employee commits misconduct on or off duty, disciplinary action may be taken against the employee. "Misconduct" occurs when an employee, by act or omission, neglects duty, fails to execute a lawful order, violates published departmental regulations, fails to follow departmental policy, or commits a public offense. "Disciplinary action" is either corrective or punitive administrative action and includes the following:

(a) A documented verbal counseling or written reprimand, which shall be considered "minor disciplinary action;" and

(b) Demotion, suspension or dismissal, which shall be considered "major disciplinary action."

Section 2. Professional Standards investigations.

There shall be Professional Standards that conducts administrative investigations. Administrative investigations shall involve the investigation of complaints against an employee by citizens or fellow employees not amounting to a violation of the criminal laws or alleged violations of the criminal laws where only an administrative penalty may be imposed.

(a) When minor disciplinary action is imposed on an employee, a report of disciplinary action will be placed in the employee's departmental personnel file. The report will state the factual details of the misconduct, the disciplinary action imposed, and the approval of the appropriate command for such disciplinary action. The employee shall be provided with an executed copy of the report. The employee shall have 30 days to file a written response to the report. The response shall be placed in the employee's departmental personnel file and shall be attached to the report.

(b) When an employee is charged with misconduct which does or reasonably may result in the imposition of major disciplinary action, the employee shall be notified in writing of the charge within ninety-six (96) hours from the time that the charge/complaint is processed, the Department shall send written notification to the employee. The notification shall state the factual details of the accusations of the misconduct, the order, regulation, policy or law, of any alleged violation; the names and addresses of all witnesses; and all other material facts known to the City and its employees. The employee and the F.O.P., if the employee requests, shall have the right to inspect

and request copies of the record of the Professional Standards file of the employee, the complaint, all documents which contain or describe any material facts, and transcripts of the interviews of the complainant and all witnesses. All records, reports, statements and information contained in the Professional Standards files are confidential and may only be used by the employee in a grievance, as described in Article 14, regarding discipline imposed on the matter which is the subject of records, statements and information obtained from the Professional Standards file, so that the F.O.P. may investigate whether there has been disparate treatment with regard to the discipline. The final Professional Standards report and related discipline pertaining to the disparate treatment shall be redacted of any identifying information so that the identity of the employee whose file and records are being reviewed is protected.

(c) Whenever an employee has received discipline, within ninety-six (96) hours of the issuance of any such discipline, the Department shall provide to the F.O.P. the entire Professional Standards file, including all witness statements and reports contained therein, and any other material in the department's possession which relates to the charges or conduct which is the basis of the discipline for the purposes of determining whether a grievance should be filed over the discipline. In all cases involving demotion, termination and "E" or "F" penalty, all statements must be transcribed and reviewed by the department before such discipline is imposed. This inspection and review shall be subject to the following limitations:

(1) All information learned from the review of the files and documents will be treated as confidential and may only be used by the F.O.P. in conjunction with the grievance procedure under the contract or in defense of any claim that the F.O.P. failed to meet its duty of fair representation owed to the employee/grievant.

(2) In order to review the aforesaid files and documents, the Lodge President, Vice-President, Chief Lodge Steward or other designated member of the Executive Board will be required to produce a document signed by the officer in question requesting that the President and Chief Lodge Steward be given access to these files and documents. It is agreed that if the officer involved does not give such consent for review of the files and documents by these F.O.P. officers, any discipline imposed upon the officer as a result of the incident under investigation shall not be considered in the database upon which the City relies in determining appropriate discipline.

(3) All letters of discipline which are issued to employees shall contain the following statement for the disciplined employee to sign: I request that a copy of this disciplinary notice be sent to the F.O.P. and that the F.O.P. shall be given access to the professional standards investigations resulting in discipline of me, and my personnel file.

____ Yes ____ No

(4) If a grievance is filed over the proposed discipline, which proceeds to a hearing before the Grievance Board, the F.O.P., shall be provided copies of the aforesaid files and documents to be used by the F.O.P. in conjunction with the grievance procedures under this contract or in defense of any claim that the F.O.P. failed to meet its duty of fair representation owed to the employee grievant.. It is agreed that these documents are confidential and must be treated in a confidential manner, and may not be used for any other purpose than the Grievance Board hearing. It is further agreed that after the grievance procedure has concluded, the documents will be returned by the F.O.P. to the City.

(d) An interview of an employee under investigation for misconduct which reasonably may result in the imposition of major disciplinary action shall be recorded in a manner chosen by the investigator. The employee and the F.O.P. shall be entitled to record the interview electronically or in writing. If the recording device for the F.O.P., professional standards or the employee fails for any reason, all parties will provide copies of their recordings to one another upon request.

(e) An employee who is the subject of an internal investigation may request that a representative of the lodge be present during the interview. The representative of the lodge shall not obstruct the interview. The lodge representative shall represent the employee in protecting the employee's rights. The lodge representative may ask for clarification of questions.

If the lodge representative cannot be made available at the designated time and location, the lodge shall be obligated to provide an alternative representative, and the interview shall be delayed until a representative can be made available, overnight if necessary.

(f) Attendance by a representative of the F.O.P., during the interviews of employees, within the bargaining unit, will not obstruct administrative investigations. To that end, the City of Wichita and F.O.P. Lodge No. 5 agree that the following procedures will be followed:

(1) A representative of the F.O.P. may attend an interview only at the option of the employee. The option can be exercised after the employee has been advised that the representative's attendance may affect the confidentiality of the interview and that any communications the employee has with the representative outside of a Garrity-protected interview, may not be privileged as to third parties.

a. The F.O.P. representative may attend interviews of employees about whom the complaint or allegations of misconduct are made and which may result in discipline. A representative of the F.O.P. may attend interviews of employees who are witnesses.

b. The employee is responsible for contacting the F.O.P. about an impending interview.

c. Administrative investigators will not interview the F.O.P. representative to determine whether the employee's statements during the interview are consistent with his or her statements in private.

d. Administrative investigations of traffic accidents by departmental personnel assigned to investigate the accident and/or supervisors assigned to the scene of the accident will be exempted from this requirement. When an employee gives any statements that may lead to discipline, under those circumstances, all questioning will stop until the Garrity statement is given and an F.O.P. representative is present for the interview, if one is requested by the employee.

e. Supervisors will be allowed to conduct a preliminary investigation of alleged misconduct to include a preliminary interview with the employee without F.O.P. representative present to determine whether an official internal investigation should be initiated.

f. Polygraph results shall not be cited in the finding of fact or disciplinary actions nor shall they be used as a reason, in whole or part, for disciplinary action.

(2) The F.O.P. will designate representatives who may represent employees during administrative interviews.

a. Representatives will be available on all shifts.

b. The representative must currently be an active member of the F.O.P. Lodge No. 5 and within the bargaining unit.

c. The representative cannot be an employee who is or may be involved in the matter being investigated. If there is a possibility that the representative may be interviewed or may be involved in connection with the matter being investigated, a different representative shall be assigned.

d. Failure of the F.O.P. to make a representative available at the time of the scheduled interview, if the employee who is the subject of the investigation fails to provide the F.O.P. with timely notice, will not cause the interview to be postponed.

(3) The representative's role is limited to enforcement of the contract and employee's rights. The representative may not obstruct the investigation or the interview.

a. Any breaks are solely at the interviewer's discretion and shall be at reasonable intervals (approximately one break an hour).

b. In the event the representative repeatedly obstructs the interview, the interview will be temporarily halted and the Chief of Police and the F.O.P. President (or their designees) will be contacted and advised of the situation. The Chief of Police and the F.O.P. President (or their designees) will work to resolve the matter. If they agree the matter is resolved the lodge representative may continue the representation of the employee being interviewed. If there is not agreement that the matter is resolved the lodge representative may not continue and will be replaced with a substitute representative.

c. The professional standards interviewer will, at various times during the interview, ask the representative of the F.O.P. if he/she has any questions, comments or claifying points to make. At the conclusion of the interviewer's questions, the employee and the representative may take a reasonable break to consult and, thereafter, the employee make an additional factual statement or clarification.

d. The interview of any employee shall be at a reasonable hour, preferably when the employee is on duty, unless the circumstances of the investigation dictate otherwise, all as determined by the department.

e. The interview shall take place at a location designated by the investigating officer, usually at a police facility.

f. The employee shall be informed of the rank, name and command of the interrogating officers as well as the rank, name and command of the officer in charge of the investigation and identity of all persons present during the interview.

g. The interview shall be completed as soon as possible. Time may be provided for personal necessities, meals, telephone calls, and rest periods, as appropriate.

h. No offensive language, coercion or promise of reward as an inducement to answering questions shall be directed at the employee. Nothing herein is to be construed as to prohibit the investigating officer from informing the employee that his conduct can become the subject of disciplinary action.

i. All Professional Standards interviews shall be recorded. There will be no off the record conversation during an interview, except by mutual agreement. All recesses called during an interview shall be noted in the record.

j. If major disciplinary action is imposed on an employee pending the determination of a complaint of misconduct and that complaint subsequently is determined to be unfounded or non-sustained or the employee is exonerated, the disciplinary action shall be revoked and the employee shall receive all rank, pay, and benefits lost as a result of the disciplinary action.

Section 3.

The Department Director shall establish a system for the receipt, investigation and determination of complaints by any person against employees which may result in the filing of criminal charges. That system shall include procedures to insure protection of an employee's Federal and State constitutional and statutory rights.

Section 4.

Prior to a change in the systems established pursuant to Sections 2 and 3 of this article, the Department Director shall notify the F.O.P. of the proposed change. The F.O.P. may comment in writing to the Department Director on the proposed change within ten work days of notification. The F.O.P.'s comments shall be given due consideration.

Section 5. Employee's signature.

Whenever an employee is ordered to place his signature upon any document or report for disciplinary action, it is understood that said employee is merely acknowledging receipt of said document and does not indicate whether or not the employee agrees or disagrees with the document, report or disciplinary action.

Section 6.

Employees receiving discipline shall have the option of forfeiting the appropriate number of accrued paid vacation days in lieu of the unpaid suspension, not to exceed ten (10) working days per calendar year.

Section 7. Complaints.

In cases where individuals have made false complaints against any member of the Department, which have been deemed unfounded, the Department will review such matters to determine whether it will prosecute such individuals involved.

Section 8. Just Cause.

Employees may only be disciplined for just cause.

Section 9. Critical Incidents.

Wichita Police Department Policies 204, 902 and 904 detail the procedure to be used in critical incidents. The parties hereby incorporate by reference these current department policies and specifically acknowledge that the critical incident procedures set out in the current policy cannot be modified or changed in any manner without the express written agreement of the City and the Lodge.

ARTICLE 14

GRIEVANCE PROCEDURE

Section 1. Definition.

A grievance is defined as any dispute involving the application or alleged violation of any provision of this Agreement. A work day is defined as Monday through Friday, excluding holidays. Verbal warnings shall not be considered grievable matters.

Section 2. Procedure.

Any grievance as defined by Section 1 of this article shall be settled in the following manner:

(a) The grievance shall be taken in writing to the employee's Division Commander within ten (10) work days after the grievance occurs by the aggrieved employee and/or the F.O.P. The Division Commander will render a decision within five (5) work days. In cases involving disciplinary action, a grievance must be filed within ten (10) days of receipt of the official notification of the discipline imposed. Copies of the Division Commander's decision will be sent to the employee and the F.O.P.

(b) Should the grievance not be resolved by the Division Commander, the employee and/or the F.O.P. may take the grievance to the Department Director. The employee and/or the F.O.P. representative must initiate the grievance in writing to the Department Director within five (5) work days from the date of receipt of the action of the Division Commander. The Department Director will render a decision within five (5) work days. Copies of the Department Director's decision will be sent to the employee and the F.O.P.

(c) Should the grievance not be resolved by the Department Director, the employee and/or the F.O.P. representative may appeal the Department Director's decision to the Employee Relations Officer within five (5) work days of the receipt completion of the Department Director's written decision. The Employee Relations Officer shall require of the Department Director to submit a letter

setting forth specific reasons for the Department Director's decision. This letter must be submitted to the Employee Relations Officer within five (5) work days of his receipt of the appeal.

(d) The Employee Relations Officer shall, within fifteen (15) work days after receipt of the appeal, contact the F.O.P., the employee, and all supervisory personnel concerned, and attempt to resolve the grievance. The written results of the findings of the Employee Relations Officer will be given to the employee, the F.O.P., and to the Human Resources Director within fifteen (15) work days of the receipt of the appeal.

(e) If the grievant and/or F.O.P. is not satisfied with the findings of the Employee Relations Officer, they may request a hearing before the Grievance Board within five (5) work days of the receipt of the Employee Relations Officer report.

Section 3. Grievance Board.

The Grievance Board shall consist of the following individuals:

(1) One person appointed by the F.O.P.

(2) One person appointed by the City.

(3) A third person, who shall act as chairperson, and who shall be selected from a panel provided by the FMCS.

Within fifteen (15) working days of the request for a Grievance Board Hearing, the parties shall jointly and in writing, petition the Federal Mediation and Conciliation Service (FMCS) to submit a list of the names of five (5) competent and available arbitrators, from which the parties shall select the neutral chairperson. If a panel provided by the FMCS is unacceptable to either side, a new panel may be requested by the side rejecting the panel within five (5) working days of the receipt of the rejected panel. Each side may exercise its right to reject only once per grievance. Within ten (10) working days after receiving such a list, the F.O.P. President and an official of the City, or their respective designees, shall alternately strike one (1) name from said list, until only one (1) name remains, and the person whose name remains on said list shall become the neutral Chairperson. The order of striking names shall be determined by the toss of a coin.
In all hearing conducted before the Grievance Board, the Administrative Rules of Evidence shall apply.

All Grievance Board Hearings shall be conducted within sixty (60) days of the selection of the Chairperson, unless the Grievance Board has granted a continuance. In any event, all Grievance

Board Hearings must be conducted within one hundred twenty (120) days of the request for a Grievance Board Hearing.

All fees, costs and expenses of the Chairperson shall be shared equally by the City and the Union.

Section 4. Burden of proof.

The burden of proof shall be allocated as follows:

(a) In all disciplinary cases, the City shall bear the burden of proving just cause for the discipline imposed.

(b) In all contract interpretation cases, the party alleging the contract violation shall bear the burden of proof.

Section 5.

The Employee Relations Officer shall act as secretary of the Grievance Board and shall handle all correspondence. The Grievance Board shall draw all necessary rules and regulations for conducting its fact-finding hearings. The rules and regulations shall provide for the grievant and the City to:

- Present evidence supporting their position
- Call witnesses
- Cross examine witnesses
- Be represented by counsel at the hearing; and
- Provide for a record of the hearing

Said rules and regulations shall be reviewed and approved by the F.O.P. and the City. The recommendation of the Board shall be forwarded to the City Manager within ten (10) work days of the conclusion of the hearing.

Section 6. City Manager's decision.

The City Manager shall render a decision within twenty (20) business days of receipt of the Grievance Board's recommendation and his decision is final. In the event the City Manager reverses or modifies the recommendation of the Grievance Board, he shall provide to the grievant and to the F.O.P., in writing, the reason(s) for his actions and the specific finding(s) upon which his actions were based. If the City Manager does not render a decision within this time, the decision of the grievance board becomes final.

Section 7. Termination cases.

In cases of termination, the grievant may proceed directly to step (d) of this procedure within five (5) work days from the employee's notice of termination.

Section 8. Letters of discipline.

Any letter of disciplinary action to be placed in an employee's personnel file shall specify the date when such letter is to be removed from such file (provided no subsequent discipline has been imposed during said period) or if appropriate specify that the letter is permanent and shall not be removed from the file.

Section 9. F.O.P. representation at Safety Review Board.

Whenever employees are scheduled by their supervisor and/or any other superior within their department, to attend a meeting concerning disciplinary action, or before a Safety Review Board, the person scheduling them shall advise them that they have the right to have a F.O.P. representative attend the meeting with them. The employee will be allowed an appropriate amount of time for scheduling a F.O.P. representative, overnight if necessary.

Section 10.

The parties agree that after a grievance has been filed by the Lodge, neither the City nor any of its representatives will meet with the grievant in reference to the incident without prior notification to the F.O.P. The F.O.P. shall be present at any grievance meeting.

ARTICLE 15

WORKING CONDITIONS AND EQUIPMENT

Section 1. Practice ammunition.

(a) The City shall make available, at its expense, 600 rounds of ammunition each year for each employee covered by this Agreement who is required regularly to carry a weapon in the line of duty, for use by employees desiring to improve or maintain proficiency with their weapons.

(b) The City shall provide 4800 rounds of submachine gun ammunition and 1200 rounds of ammunition for each sniper rifle in the arsenal, and an additional 600 rounds of handgun ammunition for each member of the tactical team.

Section 2. Firing range.

The firing range shall be open and available in accordance with department procedure for those who desire to become more proficient with their weapons. The parties agree that all employees are encouraged to practice.

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 1. F.O.P. bulletin boards.

The City shall provide space on the bulletin boards in the Wichita Police Department for the F.O.P. to post notices. All notices shall be posted by an officer of the F.O.P. Notices relating to the following matters may be posted without the necessity of receiving the Department Director's prior approval:

(a) Recreational and social functions.

(b) Notices of meetings.

(c) Appointments.

(d) Notice of elections.

(e) Results of elections.

(f) Reports of committees.

(g) Rulings or policies.

These items are restricted to F.O.P. matters.

Section 2. Employee's department personnel file.

An employee may review the employee's departmental personnel file upon request and may also review the employee's personnel file retained in the Human Resources Department of the City.

Section 3. WPD Nominating Committee.

The President of the F.O.P., or designee, shall be a permanent member of the Wichita Police Department Nominating Committee.

Section 4. Group Orientation.

During the course of training in recruit classes, police recruits will be advised of the representative status of the F.O.P. In addition, a fact sheet prepared by the F.O.P. and approved by

the Department Director, which describes the goals and objectives, voluntary nature of membership, procedures for making and revoking allotments for the payment of F.O.P. dues, the procedure for processing grievances, and the coverage and scope of this Agreement, may be provided. Such information shall not be presented in a way that could be construed as critical of the City or in a way that indicates that membership in the F.O.P. is mandatory. The F.O.P. shall be allowed one hour with the recruit class to distribute copies of the fact sheet and this Agreement, and to discuss organizational goals, policies, procedures and this Agreement.

ARTICLE 17

INTERPRETATIVE PROVISIONS

Section 1.

If any provision of this Agreement should be held invalid by any court of competent jurisdiction, or if compliance with or enforcement of any provisions should be restrained by any tribunal, the remainder of this Agreement shall not be affected thereby and the parties shall enter into negotiation for the sole purpose of redrafting a mutually satisfactory replacement for such provision so affected.

Section 2.

Should any change be made in any State or Federal law or regulation, which would be applicable and contrary to any provision herein contained, then such portion of this Agreement shall be automatically terminated but the remainder of the Agreement shall remain in full force and effect. The parties shall immediately commence to negotiate for the purpose of redrafting a mutually satisfactory replacement for such provision so affected.

Section 3.

All practices and conditions not covered by this Agreement shall continue to be governed, controlled and interpreted by reference to the City charter, ordinances, and rules and regulations.

Section 4.

Should the City wish to reclassify any position listed in this Agreement which would result in a decrease in the pay range or an increase in position responsibilities over and above the present duties for an affected pay range, either party may reopen negotiations for the purpose of negotiating base wages for the newly classified positions. All other provisions of the contract shall remain the same unless reopened by mutual agreement of both parties.

ARTICLE 18

SUBSTANCE TESTING

All employees shall be subject to random drug and alcohol testing as agreed upon by the City and the Lodge April 2007.

ARTICLE 19

DURATION AND TERMINATION

Section 1.

This Agreement shall take effect on **DECEMBER 24, 2011,** and shall continue in full force and effect through **DECEMBER 19, 2014.**

Section 2.

The parties agree that the negotiations for a successor Agreement shall commence as soon as the parties reasonably and mutually agree. All parties shall endeavor to begin negotiations for **2015** by August 1, 2014

DRAFT

IN WITNESS THEREOF, THE CITY has hereunto set their hands.

For the Fraternal Order of Police

For the City:

_____

Paul Zamorano, President

_____

Robert Layton, City Manager

This Agreement was approved by The Honorable City Council this _____

_____

Carl Brewer, Mayor

Attest:

_____

Karen Sublett, City Clerk

Approved as to form:

_____

Gary Rebenstorf, City Attorney

DRAFT

APPENDIX A

Station Clerk

Traffic Safety Officer

Warrant Officer

Crime Scene Investigator

Police Recruit

Police Officer

Police Detective

Police Sergeant

For purposes of this contract, commissioned personnel are defined as Police Officers, Police Detectives, and Police Sergeants. Non-commissioned personnel are defined as Traffic Safety Officers, Station Clerks, Warrant Officers and Crime Scene Investigators.

DRAFT

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Amended Salary Ordinance

INITIATED BY: Human Resources

AGENDA: New Business

Recommendation: Approve the amended ordinance and place them on first reading.

Background: Salary Ordinances establish pay rates, and must be revised for any changes in pay rates or salary ranges.

Employees represented by the Fraternal Order of Police (F.O.P.) Union (700 series) received a 1.5% general pay adjustment as part of the 2012 – 2014 F.O.P. Memorandum of Agreement, and the corresponding salary rates require adjustment.

Analysis: The changes proposed to one of the two salary ordinances will be effective retroactive to July 7, 2012, and is listed in the attached Salary Ordinance Revisions. Revisions are bolded.

Financial Considerations: The cost of the revisions to the Non-exempt Employee Salary Ordinance is incorporated into the 2012 budget.

Goal Impact: This change affects the City's goals of Quality of Life, Safe and Secure Community, Core Areas and Neighborhoods, Economic Vitality and Affordable Living.

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

Recommendations/Actions: It is recommended that the City Council adopt the ordinance and place it on first reading.

Attachment: Salary Ordinance Changes, October 16, 2012.

ORDINANCE NO. 49-383
Non-exempt Salary

AN ORDINANCE PROVIDING FOR A UNIFORM SCHEDULE OF STANDARD PAY RANGES FOR NON-EXEMPT EMPLOYEES OF THE CITY OF WICHITA, REPEALING ORDINANCE NO. ~~49-247.~~ _____

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA:

SECTION 1. A schedule of standard pay ranges established for classifications in ***Wichita Transit*** represented by Teamsters Union Local #795, and in which employees are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 - December 21, 2012

Range	A	B	C	D	E	F	G
312	$10.5197	$10.7826	$11.0521	$11.3284	$11.6116	$11.9019	$12.1994
314	$11.9481	$12.2468	$12.5093	$12.8669	$13.1885	$13.5182	$13.8563
315	$11.9481	$12.2468	$12.5093	$12.8669	$13.1885	$13.5182	$13.8563
316	$12.4821	$12.7942	$13.1140	$13.4419	$13.7778	$14.1222	$14.4755
317	$13.3754	$13.7098	$14.0524	$14.4038	$14.7638	$15.1330	$15.5113
320	$15.3396	$15.7231	$16.1162	$16.5190	$16.9322	$17.3554	$17.7892

Range	H	I	J	K	L	M	N	O
312	$12.5044	$12.8170	$13.1374	$13.4659	$13.8024	$14.1477	$14.5013	$14.8638
314	$14.2025	$14.5578	$14.9215	$15.2946	$15.6769	$16.0690	$16.4707	$16.8826
315	$14.2025	$14.5578	$14.9215	$15.2946	$15.6769	$16.0690	$16.4707	$16.8826
316	$14.8373	$15.2082	$15.5885	$15.9782	$16.3777	$16.7870	$17.2068	$17.6369
317	$15.8993	$16.2966	$16.7040	$17.1216	$17.5496	$17.9883	$18.4381	$18.8991
320	$18.2339	$18.6897	$19.1571	$19.6359	$20.1267	$20.6301	$21.1459	$21.6744

December 22, 2012 - December 20, 2013

Range	A	B	C	D	E	F	G
312	10.7827	11.0522	11.3284	11.6116	11.9019	12.1994	12.5044
314	12.2468	12.5530	12.8220	13.1886	13.5182	13.8562	14.2027
315	12.2468	12.5530	12.8220	13.1886	13.5182	13.8562	14.2027
316	12.7942	13.1140	13.4418	13.7779	14.1223	14.4753	14.8373
317	13.7098	14.0525	14.4038	14.7639	15.1329	15.5113	15.8991
320	15.7231	16.1162	16.5191	16.9320	17.3555	17.7893	18.2339

Range	H	I	J	K	L	M	N	O
312	12.8170	13.1374	13.4659	13.8026	14.1475	14.5014	14.8638	15.2354
314	14.5576	14.9217	15.2946	15.6770	16.0688	16.4708	16.8825	17.3046
315	14.5576	14.9217	15.2946	15.6770	16.0688	16.4708	16.8825	17.3046
316	15.2082	15.5884	15.9782	16.3777	16.7871	17.2067	17.6369	18.0778
317	16.2968	16.7040	17.1216	17.5496	17.9884	18.4380	18.8991	19.3715
320	18.6898	19.1570	19.6361	20.1268	20.6299	21.1458	21.6745	22.2163

SECTION 2. A schedule of standard pay ranges established for classifications for ***temporary, seasonal and/or intermittent*** positions that are City employees and treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 - December 20, 2013

Range	A	B	C	D	E	F	G
406	7.9936	8.1934	8.3983	8.6082	8.8234	9.0440	9.2701
407	8.2977	8.5051	8.7178	8.9357	9.1591	9.3881	9.6228
408	8.6204	8.8359	9.0568	9.2833	9.5153	9.7532	9.9971
409	8.9723	9.1966	9.4265	9.6622	9.9037	10.1513	10.4051
410	9.3406	9.5741	9.8134	10.0588	10.3102	10.5680	10.8322
411	9.7134	9.9562	10.2051	10.4603	10.7218	10.9898	11.2646
412	10.1304	10.3837	10.6432	10.9093	11.1821	11.4616	11.7482
414	11.0115	11.2868	11.5690	11.8582	12.1547	12.4585	12.7700
415	11.5022	11.7898	12.0845	12.3866	12.6963	13.0137	13.3391
416	12.0150	12.3154	12.6233	12.9389	13.2623	13.5939	13.9337
417	12.5606	12.8746	13.1965	13.5264	13.8646	14.2112	14.5665

Range	H	I	J	K	L	M	N	O
406	9.5019	9.7394	9.9829	10.2325	10.4883	10.7505	11.0192	11.2947
407	9.8634	10.1099	10.3627	10.6218	10.8873	11.1595	11.4385	11.7244
408	10.2470	10.5032	10.7657	11.0349	11.3108	11.5935	11.8834	12.1804
409	10.6653	10.9319	11.2052	11.4853	11.7724	12.0668	12.3684	12.6776
410	11.1030	11.3806	11.6651	11.9567	12.2556	12.5620	12.8761	13.1980
411	11.5462	11.8348	12.1307	12.4340	12.7448	13.0634	13.3900	13.7248
412	12.0419	12.3429	12.6515	12.9678	13.2920	13.6243	13.9649	14.3140
414	13.0893	13.4165	13.7519	14.0957	14.4481	14.8093	15.1795	15.5590
415	13.6725	14.0144	14.3647	14.7238	15.0919	15.4692	15.8560	16.2524
416	14.2821	14.6391	15.0051	15.3802	15.7647	16.1589	16.5628	16.9769
417	14.9306	15.3039	15.6865	16.0786	16.4806	16.8926	17.3149	17.7478

(THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.)

SECTION 3. A schedule of standard pay ranges established for positions in which employees are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 - December 21, 2012

Range	A	B	C	D	E	F	G
602	7.5081	7.6959	7.8883	8.0855	8.2876	8.4948	8.7072
606	8.1934	8.3982	8.6083	8.8234	9.0440	9.2701	9.5019
607	8.5051	8.7177	8.9357	9.1591	9.3881	9.6228	9.8634
608	8.8359	9.0568	9.2832	9.5154	9.7532	9.9970	10.2470
609	9.1966	9.4265	9.6622	9.9038	10.1513	10.4051	10.6652
610	9.5741	9.8135	10.0587	10.3103	10.5680	10.8322	11.1030
611	9.9562	10.2051	10.4602	10.7218	10.9898	11.2645	11.5462
612	10.3837	10.6433	10.9093	11.1820	11.4617	11.7481	12.0419
613	10.8170	11.0874	11.3646	11.6487	11.9399	12.2384	12.5444
614	11.2868	11.5690	11.8582	12.1547	12.4586	12.7700	13.0893
615	11.7898	12.0845	12.3866	12.6963	13.0137	13.3390	13.6726
616	12.3154	12.6233	12.9389	13.2624	13.5939	13.9337	14.2820
617	12.8746	13.1965	13.5264	13.8646	14.2112	14.5665	14.9307
618	13.4686	13.8053	14.1504	14.5042	14.8668	15.2385	15.6194
619	14.0984	14.4508	14.8121	15.1824	15.5620	15.9509	16.3498
620	14.7498	15.1185	15.4965	15.8839	16.2810	16.6880	17.1052
621	15.4660	15.8528	16.2490	16.6552	17.0717	17.4984	17.9359
622	16.2139	16.6192	17.0347	17.4606	17.8971	18.3445	18.8031
623	17.0001	17.4251	17.8607	18.3072	18.7649	19.2340	19.7150
624	17.8466	18.2928	18.7501	19.2189	19.6993	20.1918	20.6966
625	18.7355	19.2038	19.6839	20.1760	20.6804	21.1974	21.7273
626	19.6787	20.1707	20.6750	21.1918	21.7216	22.2646	22.8213
627	20.6787	21.1956	21.7255	22.2686	22.8253	23.3959	23.9809

Range	H	I	J	K	L	M	N	O
602	8.9249	9.1479	9.3767	9.6111	9.8514	10.0976	10.3500	10.6089
606	9.7394	9.9829	10.2325	10.4883	10.7505	11.0193	11.2947	11.5771
607	10.1100	10.3626	10.6218	10.8873	11.1595	11.4385	11.7245	12.0175
608	10.5032	10.7658	11.0348	11.3108	11.5936	11.8833	12.1805	12.4849
609	10.9319	11.2052	11.4853	11.7724	12.0667	12.3685	12.6776	12.9945
610	11.3806	11.6651	11.9567	12.2556	12.5620	12.8761	13.1980	13.5280
611	11.8349	12.1307	12.4340	12.7449	13.0634	13.3900	13.7248	14.0679
612	12.3429	12.6515	12.9678	13.2920	13.6243	13.9649	14.3140	14.6719
613	12.8580	13.1795	13.5089	13.8466	14.1929	14.5476	14.9113	15.2841
614	13.4165	13.7519	14.0957	14.4481	14.8093	15.1795	15.5590	15.9480
615	14.0143	14.3648	14.7238	15.0919	15.4692	15.8559	16.2524	16.6587
616	14.6392	15.0051	15.3802	15.7647	16.1588	16.5629	16.9769	17.4013
617	15.3039	15.6865	16.0787	16.4806	16.8926	17.3149	17.7478	18.1915
618	16.0099	16.4101	16.8204	17.2409	17.6719	18.1137	18.5665	19.0308
619	16.7584	17.1775	17.6068	18.0471	18.4983	18.9607	19.4347	19.9206
620	17.5328	17.9712	18.4205	18.8810	19.3530	19.8368	20.3327	20.8411
621	18.3843	18.8439	19.3150	19.7979	20.2928	20.8001	21.3201	21.8531
622	19.2732	19.7550	20.2489	20.7551	21.2740	21.8059	22.3510	22.9098
623	20.2078	20.7130	21.2308	21.7616	22.3056	22.8632	23.4348	24.0207
624	21.2140	21.7444	22.2880	22.8452	23.4163	24.0017	24.6017	25.2167
625	22.2706	22.8274	23.3980	23.9830	24.5825	25.1971	25.8270	26.4727
626	23.3918	23.9766	24.5760	25.1904	25.8202	26.4657	27.1273	27.8055
627	24.5804	25.1949	25.8248	26.4704	27.1322	27.8105	28.5058	29.2183

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 22, 2012 - December 20, 2013

Range	A	B	C	D	E	F	G
602	7.6958	7.8883	8.0855	8.2876	8.4948	8.7072	8.9248
606	8.3983	8.6082	8.8235	9.0440	9.2701	9.5019	9.7394
607	8.7178	8.9357	9.1591	9.3881	9.6228	9.8634	10.1100
608	9.0568	9.2832	9.5153	9.7533	9.9970	10.2470	10.5032
609	9.4265	9.6622	9.9037	10.1513	10.4051	10.6652	10.9319
610	9.8135	10.0588	10.3102	10.5680	10.8322	11.1030	11.3806
611	10.2051	10.4602	10.7217	10.9899	11.2646	11.5462	11.8349
612	10.6433	10.9094	11.1820	11.4616	11.7482	12.0418	12.3430
613	11.0875	11.3646	11.6487	11.9399	12.2384	12.5444	12.8580
614	11.5690	11.8582	12.1547	12.4585	12.7700	13.0892	13.4165
615	12.0845	12.3867	12.6963	13.0137	13.3391	13.6725	14.0144
616	12.6233	12.9389	13.2624	13.5939	13.9337	14.2821	14.6391
617	13.1965	13.5264	13.8646	14.2112	14.5665	14.9306	15.3039
618	13.8053	14.1504	14.5042	14.8668	15.2385	15.6194	16.0098
619	14.4508	14.8120	15.1824	15.5620	15.9510	16.3497	16.7585
620	15.1185	15.4965	15.8839	16.2810	16.6880	17.1052	17.5328
621	15.8527	16.2491	16.6552	17.0716	17.4985	17.9358	18.3843
622	16.6192	17.0347	17.4605	17.8971	18.3445	18.8031	19.2732
623	17.4251	17.8607	18.3072	18.7649	19.2340	19.7149	20.2078
624	18.2927	18.7501	19.2189	19.6993	20.1918	20.6966	21.2140
625	19.2038	19.6839	20.1760	20.6804	21.1974	21.7273	22.2705
626	20.1706	20.6749	21.1918	21.7216	22.2646	22.8213	23.3919
627	21.1956	21.7255	22.2686	22.8254	23.3959	23.9808	24.5804

Range	H	I	J	K	L	M	N	O
602	9.1480	9.3766	9.6111	9.8514	10.0977	10.3500	10.6088	10.8741
606	9.9829	10.2325	10.4883	10.7505	11.0193	11.2947	11.5770	11.8665
607	10.3627	10.6217	10.8873	11.1595	11.4385	11.7244	12.0176	12.3179
608	10.7658	11.0349	11.3107	11.5935	11.8834	12.1804	12.4850	12.7970
609	11.2052	11.4853	11.7725	12.0667	12.3684	12.6777	12.9946	13.3194
610	11.6651	11.9567	12.2556	12.5620	12.8760	13.1980	13.5280	13.8661
611	12.1307	12.4339	12.7448	13.0635	13.3900	13.7247	14.0679	14.4196
612	12.6515	12.9678	13.2920	13.6243	13.9649	14.3140	14.6719	15.0386
613	13.1795	13.5089	13.8466	14.1928	14.5477	14.9113	15.2841	15.6662
614	13.7519	14.0957	14.4481	14.8093	15.1795	15.5590	15.9480	16.3467
615	14.3647	14.7239	15.0919	15.4692	15.8559	16.2523	16.6587	17.0752
616	15.0051	15.3802	15.7647	16.1588	16.5628	16.9769	17.4013	17.8364
617	15.6865	16.0787	16.4806	16.8926	17.3149	17.7478	18.1915	18.6463
618	16.4101	16.8204	17.2409	17.6719	18.1137	18.5665	19.0307	19.5065
619	17.1774	17.6069	18.0470	18.4982	18.9607	19.4347	19.9206	20.4186
620	17.9712	18.4205	18.8810	19.3530	19.8369	20.3327	20.8410	21.3621
621	18.8439	19.3150	19.7979	20.2928	20.8002	21.3201	21.8531	22.3994
622	19.7550	20.2489	20.7551	21.2740	21.8058	22.3510	22.9098	23.4825
623	20.7130	21.2308	21.7616	22.3056	22.8633	23.4348	24.0206	24.6212
624	21.7444	22.2880	22.8452	23.4163	24.0017	24.6018	25.2168	25.8472
625	22.8273	23.3980	23.9829	24.5825	25.1970	25.8270	26.4727	27.1345
626	23.9766	24.5760	25.1904	25.8202	26.4657	27.1273	27.8055	28.5006
627	25.1949	25.8248	26.4704	27.1322	27.8105	28.5058	29.2184	29.9488

SECTION 4. A schedule of standard pay ranges established for ***Airport Safety*** positions in which employees are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
Effective December 24, 2011 – December 21, 2012

Range	A	B	C	D	E	F	G
691*							
24 Hour Shift	12.3531	12.6618	12.9784	13.3029	13.6355	13.9764	14.3257
40 Hour Week	17.2943	17.7267	18.1697	18.6240	19.0896	19.5669	20.0561
692*							
24 Hour Shift	13.5883	13.9281	14.2763	14.6333	14.9990	15.3740	15.7583
40 Hour Week	19.0237	19.4992	19.9868	20.4865	20.9985	21.5235	22.0617

Range	H	I	J	K	L	M	N	O
691*								
24 Hour Shift	14.6839	15.0510	15.4273	15.8130	16.2083	16.6134	17.0287	17.4544
40 Hour Week	20.5574	21.0714	21.5982	22.1381	22.6915	23.2589	23.8403	24.4362
692*								
24 Hour Shift	16.1523	16.5561	16.9699	17.3943	17.8291	18.2748	18.7316	19.2000
40 Hour Week	22.6133	23.1785	23.7580	24.3520	24.9608	25.5846	26.2243	26.8800

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
Effective December 22, 2012 – December 20, 2013

Range	A	B	C	D	E	F	G
691*							
24 Hour Shift	12.6619	12.9784	13.3029	13.6355	13.9764	14.3258	14.6839
40 Hour Week	17.7266	18.1698	18.6240	19.0896	19.5668	20.0560	20.5575
692*							
24 Hour Shift	13.9280	14.2763	14.6332	14.9991	15.3739	15.7584	16.1522
40 Hour Week	19.4992	19.9867	20.4865	20.9986	21.5235	22.0616	22.6132

Range	H	I	J	K	L	M	N	O
691*								
24 Hour Shift	15.0510	15.4273	15.8130	16.2084	16.6135	17.0288	17.4544	17.8908
40 Hour Week	21.0714	21.5982	22.1382	22.6915	23.2588	23.8404	24.4363	25.0472
692*								
24 Hour Shift	16.5561	16.9700	17.3942	17.8292	18.2749	18.7317	19.1999	19.6800
40 Hour Week	23.1786	23.7580	24.3519	24.9608	25.5848	26.2243	26.8799	27.5520

Hourly rates in this pay range that are designated "24-Hour Shift" are for ***Airport Safety*** positions assigned to work 24-hour shifts with schedules based on a 27-day work period. The rates designated "40-Hour Week" are provided to accommodate the need to assign an employee in a position classification assigned to one of these ranges to a duty requiring that work be performed during a 40-hour per week schedule.

SECTION 5. A schedule of standard pay ranges established for commissioned and non-commissioned positions in the ***Police Department*** that are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 – December 21, 2012

Range	A	B	C	D	E	F	G
710	15.2083	15.5885	15.9782	16.3776	16.7871	17.2068	17.6369
711	16.1197	16.5227	16.9357	17.3591	17.7931	18.2379	18.6939
712	17.1590	17.5879	18.0276	18.4784	18.9403	19.4138	19.8992
714	18.3878	18.8475	19.3187	19.8016	20.2968	20.8042	21.3242
722	19.3632						
723	20.2755	20.7824	21.3019	21.8345	22.3803	22.9399	23.5134
724	22.2753	22.8321	23.4030	23.9880	24.5877	25.2025	25.8325
725*	24.4961	25.1085	25.7361	26.3795	27.0391	27.7151	28.4079
727*	---	---	---	---	---	29.5656	30.3047

Range	H	I	J	K	L	M	N	O
710	18.0779	18.5298	18.9931	19.4679	19.9546	20.4535	20.9648	21.4889
711	19.1613	19.6403	20.1313	20.6345	21.1504	21.6792	22.2212	22.7767
712	20.3966	20.9066	21.4292	21.9649	22.5140	23.0769	23.6539	24.2452
714	21.8573	22.4038	22.9639	23.5380	24.1264	24.7296	25.3478	25.9816
722								
723	24.1012	24.7038	25.3213	25.9544	26.6033	27.2683	27.9501	28.6488
724	26.4783	27.1402	27.8187	28.5142	29.2270	29.9577	30.7067	31.4743
725*	29.1181	29.8461	30.5922	31.3570	32.1410	32.9445	33.7681	34.6123
727*	31.0623	31.8390	32.6348	33.4507	34.2869	35.1441	36.0227	36.9233

*Hourly rates in this pay range are for law enforcement positions assigned to work a 42.5-hour per week schedule

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 22, 2012 – December 20, 2013

Range	A	B	C	D	E	F	G
710	15.4364	15.8223	16.2179	16.6233	17.0389	17.4649	17.9015
711	16.3615	16.7705	17.1897	17.6195	18.0599	18.5115	18.9743
712	17.4164	17.8517	18.2980	18.7556	19.2244	19.7050	20.1977
714	18.6637	19.1302	19.6085	20.0987	20.6012	21.1162	21.6441
722	19.6536						
723	20.5797	21.0942	21.6214	22.1620	22.7160	23.2840	23.8661
724	22.6094	23.1746	23.7540	24.3478	24.9565	25.5805	26.2199
725*	24.8636	25.4851	26.1222	26.7752	27.4447	28.1308	28.8340
727*	---	---	---	---	---	30.3047	31.0623

Range	H	I	J	K	L	M	N	O
710	18.3490	18.8078	19.2780	19.7599	20.2539	20.7603	21.2793	21.8112
711	19.4487	19.9349	20.4333	20.9441	21.4676	22.0044	22.5545	23.1184
712	20.7026	21.2202	21.7506	22.2944	22.8517	23.4231	24.0087	24.6089
714	22.1852	22.7398	23.3083	23.8910	24.4883	25.1005	25.7280	26.3713
722								
723	24.4627	25.0743	25.7011	26.3437	27.0023	27.6773	28.3693	29.0785
724	26.8755	27.5473	28.2360	28.9419	29.6654	30.4071	31.1673	31.9465
725*	29.5549	30.2938	31.0511	31.8274	32.6231	33.4386	34.2747	35.1315
727*	31.8390	32.6348	33.4507	34.2869	35.1441	36.0227	36.9233	37.8464

*Hourly rates in this pay range are for law enforcement positions assigned to work a 42.5-hour per week schedule

SECTION 5 (continued)

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 21, 2013 – December 20, 2014

Range	A	B	C	D	E	F	G
710	15.6679	16.0596	16.4612	16.8726	17.2945	17.7269	18.1700
711	16.6069	17.0221	17.4476	17.8838	18.3308	18.7892	19.2589
712	17.6776	18.1195	18.5725	19.0369	19.5128	20.0006	20.5006
714	18.9436	19.4172	19.9026	20.4001	20.9102	21.4330	21.9688
722	19.9484						
723	20.8884	21.4106	21.9458	22.4944	23.0568	23.6333	24.2241
724	22.9486	23.5222	24.1103	24.7130	25.3308	25.9642	26.6132
725*	25.2365	25.8674	26.5140	27.1769	27.8563	28.5528	29.2666
727*	---	---	---	---	---	30.3047	31.0623

Range	H	I	J	K	L	M	N	O
710	18.6243	19.0899	19.5672	20.0563	20.5577	21.0717	21.5985	22.1384
711	19.7404	20.2339	20.7398	21.2582	21.7896	22.3344	22.8928	23.4651
712	21.0131	21.5385	22.0769	22.6288	23.1945	23.7744	24.3688	24.9780
714	22.5180	23.0809	23.6580	24.2494	24.8557	25.4770	26.1139	26.7669
722								
723	24.8296	25.4505	26.0866	26.7388	27.4073	28.0925	28.7948	29.5147
724	27.2786	27.9605	28.6595	29.3760	30.1104	30.8632	31.6348	32.4256
725*	29.9982	30.7482	31.5169	32.3048	33.1125	33.9402	34.7888	35.6585
727*	31.8390	32.6348	33.4507	34.2869	35.1441	36.0227	36.9233	37.8464

*Hourly rates in this pay range are for law enforcement positions assigned to work a 42.5-hour per week schedule

SECTION 6. A schedule of standard pay ranges established for commissioned positions in the ***Fire Department*** in which employees are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 25, 2010 – December 23, 2011

Range	A	B	C	D	E	F	G
821	16.2772	---	---	---	---	---	---
824	20.5315	21.0448	21.5709	22.1102	22.6629	23.2295	23.8102
827* 24 Hr.	16.2602	16.6667	17.0834	17.5104	17.9482	18.3969	18.8568
827* 40 Hr.	22.7643	23.3334	23.9167	24.5146	25.1275	25.7557	26.3996
891* 24 Hr	13.2692	13.6009	13.9409	14.2895	14.6467	15.0129	15.3882
891* 40 Hr	18.5769	19.0413	19.5173	20.0052	20.5054	21.0180	21.5435
892* 24 Hr	14.6653	15.0320	15.4078	15.7930	16.1878	16.5925	17.0073
892* 40 Hr.	20.5315	21.0448	21.5709	22.1102	22.6629	23.2295	23.8102
893* 24 Hr.	16.2602	16.6667	17.0834	17.5104	17.9482	18.3969	18.8568
893* 40 Hr.	22.7643	23.3334	23.9167	24.5146	25.1275	25.7557	26.3996

Range	H	I	J	K	L	M	N	O
821	---	---	---	---	---	---	---	---
824	24.4055	25.0156	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104
827* 24 Hr.	19.3283	19.8115	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752
827* 40 Hr.	27.0596	27.7361	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653
891* 24 Hr	15.7729	16.1672	16.5714	16.9857	17.4103	17.8456	18.2917	18.7490
891* 40 Hr	22.0820	22.6341	23.2000	23.7800	24.3745	24.9838	25.6084	26.2486
892* 24 Hr	17.4325	17.8683	18.3150	18.7729	19.2422	19.7233	20.2163	20.7217
892 *40 Hr.	24.4055	25.0156	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104
893* 24 Hr.	19.3283	19.8115	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752
893* 40 Hr.	27.0596	27.7361	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 – December 21, 2012

Range	A	B	C	D	E	F	G
821	16.6841	---	---	---	---	---	---
824	21.0448	21.5709	22.1102	22.6629	23.2295	23.8102	24.4055
827* 24 Hr.	16.6667	17.0834	17.5104	17.9482	18.3969	18.8568	19.3283
827* 40 Hr.	23.3334	23.9167	24.5146	25.1275	25.7557	26.3996	27.0596
891* 24 Hr	13.6009	13.9409	14.2895	14.6467	15.0129	15.3882	15.7729
891* 40 Hr	19.0413	19.5173	20.0052	20.5054	21.0180	21.5435	22.0820
892* 24 Hr	15.0320	15.4078	15.7930	16.1878	16.5925	17.0073	17.4325
892* 40 Hr.	21.0448	21.5709	22.1102	22.6629	23.2295	23.8102	24.4055
893* 24 Hr.	16.6667	17.0834	17.5104	17.9482	18.3969	18.8568	19.3283
893* 40 Hr.	23.3334	23.9167	24.5146	25.1275	25.7557	26.3996	27.0596

Range	H	I	J	K	L	M	N	O
821	---	---	---	---	---	---	---	---
824	25.0156	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104	29.7357
827*24 Hr.	19.8115	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752	23.5496
827* 40 Hr.	27.7361	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653	32.9694
891* 24 Hr	16.1672	16.5714	16.9857	17.4103	17.8456	18.2917	18.7490	19.2177
891* 40 Hr	22.6341	23.2000	23.7800	24.3745	24.9838	25.6084	26.2486	26.9048
892* 24 Hr	17.8683	18.3150	18.7729	19.2422	19.7233	20.2163	20.7217	21.2398
892 *40 Hr.	25.0156	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104	29.7357
893* 24 Hr.	19.8115	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752	23.5496
893* 40 Hr.	27.7361	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653	32.9694

December 22, 2012 – December 20, 2013

Range	A	B	C	D	E	F	G
821	17.1012	---	---	---	---	---	---
824	21.5709	22.1102	22.6629	23.2295	23.8102	24.4055	25.0156
827* 24 Hr.	16.6667	17.0834	17.5104	17.9482	18.3969	18.8568	19.3283
827* 40 Hr.	23.3334	23.9167	24.5146	25.1275	25.7557	26.3996	27.0596
891* 24 Hr	13.9409	14.2895	14.6467	15.0129	15.3882	15.7729	16.1672
891* 40 Hr	19.5173	20.0052	20.5054	21.0180	21.5435	22.0820	22.6341
892* 24 Hr	15.4078	15.7930	16.1878	16.5925	17.0073	17.4325	17.8683
892* 40 Hr.	21.5709	22.1102	22.6629	23.2295	23.8102	24.4055	25.0156
893* 24 Hr.	17.0834	17.5104	17.9482	18.3969	18.8568	19.3283	19.8115
893* 40 Hr.	23.9167	24.5146	25.1275	25.7557	26.3996	27.0596	27.7361

Range	H	I	J	K	L	M	N	O
821	---	---	---	---	---	---	---	---
824	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104	29.7357	30.4791
827* 24 Hr.	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752	23.5496	24.1383
827* 40 Hr.	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653	32.9694	33.7937
891* 24 Hr	16.5714	16.9857	17.4103	17.8456	18.2917	18.7490	19.2177	19.6982
891* 40 Hr	23.2000	23.7800	24.3745	24.9838	25.6084	26.2486	26.9048	27.5775
892* 24 Hr	18.3150	18.7729	19.2422	19.7233	20.2163	20.7217	21.2398	21.7708
892 *40 Hr.	25.6410	26.2820	26.9391	27.6126	28.3029	29.0104	29.7357	30.4791
893* 24 Hr.	20.3068	20.8144	21.3348	21.8682	22.4149	22.9752	23.5496	24.1383
893* 40 Hr.	28.4295	29.1402	29.8687	30.6154	31.3808	32.1653	32.9694	33.7937

*****Hourly rates in this pay range that are designated "24-Hour Shift" are for fire protection positions assigned to work hour shifts with schedules based on a 27-day work period. The rates designated "40-Hour Week" are provided to accommodate the need to assign an employee in a position classification assigned to one of these ranges to a duty requiring that work be performed during a 40-hour per week schedule.

SECTION 7. A schedule of standard pay ranges established for professional positions in which employees are treated as non-exempt from the overtime provisions of the FLSA.

SCHEDULE OF STANDARD PAY RANGES IN HOURLY AMOUNTS
December 24, 2011 – December 21, 2012

Range	A	B	C	D	E	F	G
926	19.6787	20.1707	20.6751	21.1919	21.7217	22.2645	22.8213
927	20.6787	21.1956	21.7255	22.2686	22.8253	23.3959	23.9808
928	21.7126	22.2555	22.8119	23.3822	23.9668	24.5659	25.1799
929	22.7984	23.3682	23.9524	24.5511	25.1650	25.7942	26.4390

Range	H	I	J	K	L	M	N	O
926	23.3923	23.9766	24.5760	25.1904	25.8202	26.4657	27.1273	27.8055
927	24.5804	25.1949	25.8248	26.4704	27.1322	27.8104	28.5057	29.2183
928	25.8096	26.4547	27.1161	27.7940	28.4890	29.2011	29.9311	30.6794
929	27.1000	27.7774	28.4719	29.1837	29.9134	30.6611	31.4276	32.2134

December 22, 2012 – December 20, 2013

Range	A	B	C	D	E	F	G
926	20.1706	20.6749	21.1919	21.7217	22.2647	22.8212	23.3919
927	21.1956	21.7255	22.2686	22.8254	23.3959	23.9808	24.5803
928	22.2554	22.8119	23.3822	23.9668	24.5659	25.1800	25.8094
929	23.3683	23.9524	24.5512	25.1649	25.7941	26.4391	27.0999

Range	H	I	J	K	L	M	N	O
926	23.9772	24.5760	25.1904	25.8202	26.4657	27.1273	27.8055	28.5006
927	25.1949	25.8248	26.4704	27.1322	27.8105	28.5057	29.2183	29.9488
928	26.4548	27.1161	27.7940	28.4889	29.2012	29.9312	30.6794	31.4464
929	27.7775	28.4718	29.1837	29.9133	30.6612	31.4277	32.2133	33.0187

SECTION 8. <u>Other Provisions</u>

a. Unless otherwise indicated in the schedule contained in Sections 1 through 8 above, the pay ranges enumerated in said Sections shall constitute the total pay received by employees, subject to the following exceptions:

(1) Commissioned officers of the Police Department who are required to wear uniforms while on duty will be issued a complete uniform. All uniform items issued under the uniform program shall remain the property of the City of Wichita.

(2) Commissioned Police Department Personnel, as well as Traffic Safety Officers, Warrant Officers, Station Clerks, and Crime Scene Investigators shall be allowed up to a maximum of $700.00 in department credit or vouchers for replacement of uniforms and/or civilian attire in accordance with departmental policy. Uniformed employees may expend up to $350.00 of the allowance for civilian attire each year. This provision applies below the rank of Deputy Police Chief. It does not apply to civilianized positions that are not required to be in uniform.

(3) All members of the Reserve Police Force may, at the discretion of the City Manager, be paid up to but not exceeding the sum of $60.00 per year, in accordance with the clothing maintenance and allowance program promulgated and administered by the City Manager, which program may be revised and amended.

(4) Commissioned officers of the Fire Department who are required to wear uniforms while on duty will be paid up to but not exceeding the additional sum of $625.00 in 2012 and $650.00 in 2013. This provision applies to positions below the rank of Deputy Fire Chief.

Protective clothing will be furnished to such members of the Fire Department as may be designated by the Director of the Department. Protective clothing shall include bunkers, coats, boots, and any other items that the City Manager may authorize.

(5) Uniforms may be prescribed for employees in positions whose duties bring them in frequent contact with the public. Department directors may acquire, with approval of the City Manager, uniforms within budgeted amounts.

(6) Service Officers, Security Screeners and Security Officers in the Police Department shall be allowed up to a maximum of $450.00 in department credit or vouchers for replacement of uniforms in accordance with Departmental Policy. No allowance shall be paid in the year of initial uniform issue or any subsequent year in which all new uniforms are issued.

The City Manager may approve an annual uniform allowance or credit vouchers up to a maximum of $125.00 for other noncommissioned City employees required to wear a standardized uniform in the performance of their assigned duties. The allowance will vary depending upon the actual costs of replacing different kinds of uniforms and departmental policy. The City Manager shall determine which positions will require such uniforms and may revise and amend such determination at his/her discretion.

Reimbursement shall be made to eligible employees, of an amount not to exceed $150.00, expended for safety boots that meet the specifications set by the City. The City Manager shall determine which positions are eligible and may revise and amend such determination at his/her discretion.

(7) Commissioned officers of the Police Department who have received a degree from a four-year college or university will receive $110.00 per month for a bachelor's degree or $135.00 per month for a master's degree. The degree must be in Administration of Justice, a related field, or be approved the Department Director and the City Manager. These employees are not eligible for the Tuition Reimbursement program.

(8) Commissioned members of the Fire Department shall receive education pay of $25.00 per month for associate's degree or $50.00 per month for a bachelor's degree or $75.00 per month for a master's degree in Fire Science from a college or university accredited by an agency recognized by the Kansas Board of Regents and certified as eligible by the Human Resources Department. These employees are not eligible for the Tuition Reimbursement program.

(9) Airport Police and Fire Officers represented by the Teamsters Union Local #795 shall receive education pay of $50.00 per month for a bachelor's degree or $75.00 per month for a master's degree from a college or university accredited by an agency recognized by the Kansas Board of Regents and certified as eligible by the Human Resources Department. These employees are not eligible for the Tuition Reimbursement program.

(10) Police Department personnel who are assigned to duty requiring regular and frequent aerial flights shall be entitled to Special Duty Pay, not to exceed $60.00 per pay period in which at least ten (10) flight hours are logged. Special Duty Pay also applies to Police Department personnel who are certified/trained and assigned to bomb duty, clandestine labs, canine or SWAT duty; they shall be compensated $60.00 per pay period in addition to their regular pay. An employee may receive only one category of Special Duty Pay.

(11) IAFF-represented Fire Department personnel who are certified as, and members of, the team assigned to Arson Investigation, Haz-Mat or Technical Rescue, will receive an additional $35.00 per pay period. This provision also applies to Fire Battalion Chiefs who qualify. An employee may receive only one category of Special Duty Pay.

(12) Airport Police and Fire Officers represented by the Teamsters Union Local #795 shall receive $35.00 per pay period in addition to their base pay upon satisfactory completion of an accredited Emergency Medical Technician (EMT) course.

(13) Police Officers who are assigned to Field Training Officer duty shall be entitled to an additional $1.25 per hour while actually assigned to the training of newly commissioned officers and newly commissioned reserve police officers. This shall occur only during the training cycle or remedial training cycle established for such new officers (or such training cycle as may be approved by the Chief of Police). Police Sergeants who are assigned to a Police Field Training Sergeant duty shall be entitled to an additional $1.15 per hour while actually assigned to supervise the training of newly commissioned officers and newly commissioned reserve police officers. This pay shall only occur during the training cycle or remedial training cycle established for such new officers (or such Training cycle as may be approved by the Chief of Police).

(14) FOP-represented employees who opt to take and pass an annual fitness test will receive a $100.00 bonus for each year in which they pass the test.

(15) Sports Officials, if City employees, will be paid on a <u>per game</u> basis with pay ranging from $18.00 to $60.00 per game. Individual rates depend on the specific sport and/or certification level of the official.

(16) Shift differential will be paid at a rate of $0.75 per hour for hours actually worked between 6:00 p.m. and 6:00 a.m. for full-time non-exempt employees represented by the Service Employees' International Union or by Employees' Council.

The following work time will be used to differentiate between shifts for employees in the Fire Department represented by the International Association of Fire fighters:

1st Shift: From	4:00 a.m. to 2:59 p.m.
2nd Shift: From	3:00 p.m. to 9:59 p.m.
3rd Shift: From	10:00 p.m. to 3:59 a.m.

The following work time will be used to differentiate between shifts for employees represented by the Fraternal Order of Police:

1st Shift: From:	6:00 a.m.	To: 10:00 a.m.
2nd Shift: From:	10:00 a.m.	To: 5:00 p.m.
3rd Shift: From:	5:00 p.m.	To: 11:00 pm.
4th Shift: From:	11:00 p.m.	To: 6:00 a.m.

Employees represented by the Fraternal Order of Police shall receive $0.75 per hour shift differential for 2nd, 3rd and 4th shift, in addition to regular wages.

Employees of the Fire Department represented by the International Association of Fire Fighters who work a 40 hour week will receive $0.15 per hour differential for 2nd shift and $0.25 per hour for 3rd shift.

(17) An employee who is put on standby status shall be compensated at the rate of $1.00 per hour for every hour on standby status.

(18) Allowance for travel expenses or for the use of personally owned vehicles may be made by the City Manager; and such other expenses incurred in, and as part of, official City business as shall be authorized and approved by the City Manager.

Any subsistence furnished employees shall be deducted from the gross pay in the amount of the equivalent cash value as determined by the City Manager.

(19) In recognition of long and faithful service the City Manager may approve longevity pay for certain employees in addition to other remuneration received. Such payments may commence upon the completion of six years total accumulative municipal employment, and continue each year thereafter so long as an employee shall remain in the active service of the City. The payment shall be an amount not to exceed $2.00 times the total years of service, per month, e.g., $2.00 X 10 years of service = $20.00 per month payment. For employees with over eleven years accumulative City employment, the payment shall be $5.00 time the total years of service per month, e.g., $5.00 X 12 years of service = $60.00 per month in payment. Refer to the Memorandum of Agreement for longevity pay for Teamsters Union Local #795 (Transit) positions.

(20) The City Manager may authorize compensation to employees serving in an acting capacity, at the pay range of such position being filled, when such acting capacity is expected to exceed four (4) weeks, or in accordance with approved Memoranda of Agreement with recognized employee organizations.

(21) If an employee moves into a new classification because of a reclassification, or if an employee receives a pay range reduction, and if the employee's pay is more than the maximum pay in the new range, the employee's pay will be reduced to the maximum for the new pay range, or the employee may, at the discretion of the City Manager, continue to be paid at his/her current rate. Such employees may not receive further merit or cost of living increases until the pay range equals or exceeds the amount paid the employee.

If an employee moves into a higher classification due to a reclassification, and if the employee's pay falls below the minimum of the new range, the employee's pay will be increased to the minimum for the new pay range, or the employee may, at the discretion of the City Manager, continue to be paid at his/her current rate for up to six months following the reclassification.

b. In addition to the compensation provided for above, there shall be paid to each employee coming within the provisions of the Kansas Workers' Compensation Act during any period of total disability compensable under said Act for a period not exceeding 90 consecutive calendar days from date of injury, his/her net pay less compensation payments received under the provisions of said Act.

c. The City Manager shall certify the classification and compensation of each employee of the City of Wichita, and any change of classification or compensation of any employee.

d. The City Manager shall formulate such rules and regulations as shall be necessary to carry out the purposes and intent of this Ordinance, and to establish equitable conditions of employment under the various departments and employees, including all available employee benefits.

e. The Human Resources Director shall keep permanent records of the certification of classification and payment as is provided for in this Ordinance.

f. The City Manager is authorized to adjust the scheduled pay ranges for specific positions, in an amount not to exceed 10%, to avoid inequities or address compression issues which may arise. In the event the City Manager exercises this authority to adjust the pay ranges, he/she shall make available to the City Council, upon request, information regarding such adjustment, and such adjustments shall be reflected in future general ordinances establishing position classifications and pay rates.

g. If the City Manager of the City of Wichita should decide to create a new classification of positions and prescribe payments for such classifications, he/she shall make available a statement of the duties and responsibilities of such classification, together with the proposed compensation for such classification to the City Council upon request.

h. The City of Wichita is hereby authorized to withhold from the salaries and wages of its employees such sums as they may designate.

i. Any compensation granted as a bonus or one-time payment to an employee in any retirement plan will not be subject to retirement withholding nor will it be included in the final average salary of a retiring employee.

j. Nothing in this Section shall be construed in any way to limit the administrative discretion of the City Manager to, within budgetary limits, increase or decrease pay rates of individual positions within the pay ranges prescribed for the position classifications, provided the certification is made to the Human Resources Director as provided herein.

SECTION 9. Ordinance No. **49-24** _____ is hereby repealed.

SECTION 10. This ordinance shall take effect on October 16, 2012 and be published in the official city newspaper.

ADOPTED at Wichita, Kansas, this 23rd day of October.

_____
Carl Brewer, Mayor

Attest: _____

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Agenda Item No. IV-8

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: 2013 Performance Contracts for Cultural Funding (All Districts)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New business

- -

Recommendation: It is recommended that City Council approve 21 Performance Contracts for Fiscal Year (FY) 2013 Cultural Funding and four (4) Operating Agreements.

Background: In 2005, the City Council approved the formation of the Cultural Funding Committee (CFC) consisting of 11 members. Members of the City Council appointed seven members. The Arts Council appointed four members. The committee consists of representatives from government, education, business, philanthropy, arts organizations and the public at large. The committee was assigned the responsibility to make recommendations to members of the City Council on the allocation of funding for operational grants for arts and cultural organizations. This year, the committee made total recommendations in the amount of $3,024,872.64 which included funding identified for Group One organizations in their five-year Operational Agreements and Cultural Funding allocations recommended for qualifying arts organizations.

Group One organizations were defined and identified in the Cultural Arts Plan, which was updated and approved by the City Council in November 2008. The definition of a Group One organization is a not-for-profit arts or cultural organization in which "public-owned facilities or land, public-owned collections (artifacts, exhibits, displays, etc.), public employees and/or significant public support of the organization's operating budget are provided by the City." These Group One organizations include the Wichita Art Museum, Wichita-Sedgwick County Historical Museum, Botanica, Mid-America All-Indian Center and Old Cowtown Museum.

In 2010, the City entered into five-year Operational Agreements with the Group One organizations to protect the City's investment in these organizations. The purpose of the Operating Agreements is to define the City's performance expectations for Group One organizations and to indentify anticipated funding amounts for five years which allows the organizations the ability to create long-term strategic plans.

Each Group One organization was required to submit an Annual Operating Agreement Report which was reviewed by the Cultural Funding Committee using performance criteria. This criterion was approved by the organizations and the City Council in November 2010 and added to the Operating Agreements at that time as an addendum. This list of performance criteria was developed to encourage Group One organizations to perform at a higher level of excellence and to determine the overall health of the organization. Once the Cultural Funding Committee reviewed the Annual Operating Agreement reports, it then submitted a recommendation to the City Council to honor the funding amounts identified for FY2013 in the Operating Agreements.

Old Cowtown Museum came under the management of the Division of Arts & Cultural Services in August of 2007 and receives the majority of its funding from the City's General Fund. As a result of this change, a legal Operating Agreement is not feasible**.** However, they are required to submit an Annual Report and are expected to attain the same level of performance excellence as the other Group One organizations.

The performance criteria which were used by the Cultural Funding committee to determine the performance level and overall health of the Group One organizations included:

- Quality of the Organization
    - Demonstrates diversity of board members and rotation of members.
    - Identifies staffing levels and demonstrates staff stability.
    - Stewardship of collection (Identifies acquisitions, loans and deaccessions.)
    - Demonstrated record of producing/presenting arts of the highest quality over the past 2 or 3 years through attendance at events and participation in programs.
    - Appropriateness of the program/projects to the organization's core values; mission, audience, community, and/or constituency.
    - Organizations commitment to programs and activities reflected through attendance data.
    - Demonstrates a commitment to youth programming.
    - Identity program and percentage of cost-recovery.

- Community Impact
    - Demonstrates an effort to reach wide audiences including underserved populations.
    - Demonstrates ability to collaborate and create program partnerships with other organizations, local businesses, and schools.
    - Demonstrates ability to contribute to the quality of life for the citizens of Wichita through diversity and attendance of audience and participation in programs.
    - Rotates offerings/exhibits to enhance the experience of visitors or audience.

- Financial Stability
    - Identified different forms of financial support including grants, fundraisers and foundation.
    - Explained how operating funds from the City of Wichita were used.
    - Balanced operating budget.
    - Public commitment to programs and activities reflected through earned income data. (Including total attendance, total paid admissions, total paid memberships, and total attendance of school groups/tours.)
    - Executed a strategic plan.
    - Demonstrated three (3) year growth in earned income.
    - Maintains a three (3) to six (6) month operating reserve.

Once the Cultural Funding Committee members reviewed the five (5) Annual Operating Agreement Reports for the Group One organizations, they reviewed FY2013 Cultural Funding applications from 26 arts and cultural organizations which included the five (5) Group One organizations. As a result of the approved Cultural Funding review process completed during April 2012, the committee recommended Cultural Funding for 22 of the applying organizations. The City Council approved the recommendations for funding in August 2012 as part of the FY2013 City of Wichita budget.

Analysis: The 21 Performance Contracts and four (4) Operating Agreements provide the City with a fair and equitable method of allocating funds to the arts organizations and ensure accountability of performance measures. These contracts allow for audits of the usage of City funding and a demonstration of meeting the excellence criteria developed. Funding recommendations approved as part of the FY2013 budget are below:

Group One - Cultural Funding:

Organization Name	2012 Amount Funded	2013 Amount Recommended
Group 1 Operating Agreement		
Historical Museum	$142,181.00	$146,446.64
The Wichita Art Museum, Inc.	$1,604,393.00	$1,652,524.30
Mid-America All-Indian Center	$165,077.00	$170,028.85
Botanica, The Wichita Gardens	$301,336.00	$310,376.00
Cowtown	$245,475.00	$252,839.25
Total Group One Operating Agreement Amount	**$2,485,462.00**	**$2,532,215.04**

All Other Organizations - Cultural Funding:

Organization Name	FY2012 Amount Approved	Final Score FY2013	FY2013 Amount Recommended
Arts Partners	$41,792.00	90	$42,500.00
WSU Foundation (Ulrich Museum)	$34,417.00	89	$38,226.60
Music Theatre of Wichita	$78,667.00	89	$75,000.00
Chamber Music at the Barn	$9,833.00	88	$10,000.00
Exploration Place	$41,792.00	88	$37,000.00
Tallgrass Film Festival	$22,125.00	87	$20,000.00
Historical Museum	**$7,866.00**	**86**	**$7,000.00**
Sedgwick County Zoological Society	$57,033.00	85	$43,000.00
Wichita Public Library Foundation	$63,917.00	83	$40,000.00
Wichita Symphony	$98,333.00	83	$54,000.00
Wichita Children's Theatre	$27,961.73	83	$26,000.00
Mid-America All-Indian Museum	**$17,700.00**	**82**	**$6,000.00**
Wichita Art Museum	**$0.00**	**82**	**$6,000.00**
Kansas Aviation Museum	$41,792.00	82	$25,000.00
Orpheum Performing Arts Center, Ltd	$29,500.00	82	$25,000.00
Old Cowtown Museum	**$24,583.00**	**79**	**$3,000.00**
Botanica	**$24,583.00**	**78**	**$3,000.00**
Museum of World Treasures	$34,417.00	78	$15,000.00
Wichita Grand Opera	$9,833.00	76	$5,000.00
Lyric Opera (Formerly Opera Kansas)	$0.00	76	$3,000.00
Wichita Wind Ensemble	Did not apply	75	$2,500.00
Historic Wichita Cowtown Inc.	Did not apply	72	$0.00
Music Theatre for Young People	$9,833.00	65	$0.00
Heart of America Men's Chorus Inc.	$0.00	62	$0.00
Griot's Storytelling Institute	$0.00	61	$0.00
Arts Council**	$6,431.00		$6,431.00
Total supplemental recommended for all organizations (26 organizations)	**682,408.73**		**$492,657.60**
Total Amount to Allocate after reduction	**$3,140,8710.73**		**$3,024,872.64**

** Arts Council does not apply for funding. The amount allocated is to provide necessary administrative funding support for the Cultural Funding committee which is a sub-committee of the Arts Council. The amount allocated has remained the same since 2006. During the FY2013 review, the CFC decided the Arts Council should not submit an application for funding.

Financial Consideration: The recommended funding amounts are included in the City of Wichita 2013 Adopted Budget.

Goal Impact: To Enhance the Quality of Life for citizens of Wichita by protecting the City's investment in arts and cultural organizations.

Legal Consideration: The Law Department has prepared and approved as to form the proposed Performance Contracts and Operating Agreements.

Recommendations/Actions: It is recommended that City Council approve 21 Performance Contracts for Cultural Funding for Fiscal Year (FY) 2013 and four (4) Operating Agreements.

Attachments: 21 Performance Contracts
4 Operating Agreements

BOTANICA, INC. OPERATING AGREEMENT

THIS OPERATING AGREEMENT entered into this 20th day of October 2009 by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Botanica, Inc., a Kansas Not-For-Profit corporation duly organized under the laws of the State of Kansas, (hereinafter referred to as Botanica).

WITNESSETH:

WHEREAS, Botanica is duly incorporated and empowered among other things to establish, maintain and operate Botanica, The Wichita Gardens, a significant horticulture display garden for enjoyment and education of the citizens of Wichita, the region, and area tourists; and

WHEREAS, on June 29, 1917, Coler Sim and his wife Nellie H. Sim deeded land to the City, to be known as Arthur B. Sim Park. Condition Number 6, of the Warranty Deed states the land shall not to be used other than as a recreational park. In 1985 the Sim Family approved the establishment of Botanica, The Wichita Gardens. The City and Botanica formed a public/private partnership on the 10th day of April, 1987 to operate on land, donated to the City by Coler Sim and now owned by the City, and to develop and improve facilities on that land with public funds supplied by the City and private funds and support provided by Botanica. In June of 2008, Greg Hissem, the great grandson of Coler Sim and heir of the Sim family estate, approved the expansion of Botanica, The Wichita Gardens, to build on land west of the current facility south of the Sim Golf Course and northwest of Cowtown Museum; and

WHEREAS, Botanica has contributed substantial sums of money, time and effort in connection with the establishment and development of Botanica, The Wichita Gardens, and has assured the City that it will continue to contribute and use its resources for various garden exhibits, structures and improvements as well as dedicating time and effort in the establishment, operation, maintenance, and development of Botanica, The Wichita Gardens; and

WHEREAS, it is in the best interest of the City, Botanica, and the general public that a new agreement which supersedes all prior operating agreements be entered into between the parties, redefining certain rights and obligations, establishing a clear understanding of ownership, policy considerations, facility commitments and financial commitments to ensure the operation of Botanica, The Wichita Gardens;

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter contained, the City and Botanica hereby agree as follows:

1. <u>Purpose</u>: Botanica accepts and assumes the exclusive obligation to occupy and operate Botanica, The Wichita Gardens, including lands designated for future expansion, during the term of this Agreement, and shall be responsible for the custody, care, maintenance and development of the land and garden improvements. The City's Department of Parks and Recreation shall provide management oversight to ensure that development and all improvements meet the deed covenants of the land. The City will also provide financial and in- kind services and support as needed to maintain a park

environment. Botanica will operate and manage Botanica, The Wichita Gardens in the public interest and for the uses and purposes outlined in its express mission - to maintain a significant horticulture display garden for enjoyment and education of the community and region that sets the standard of excellence for botanical gardens in the Midwest.

2. Name: Botanica agrees to continue the name of the gardens and facility as "Botanica, The Wichita Gardens" throughout the life of this Agreement.

3. Term: The term of this Agreement shall be for a period of fifty (50) years commencing _____ 2010, but is subject to periodic five-year reviews in June of said years affected by this provision. Either party may terminate this Agreement by giving written notice by June 1 of any year, which termination shall be affective the following January 1. Notwithstanding the foregoing, Botanica may, in its sole discretion, terminate this Agreement if City substantially reduces its funding.

4. Management:

A. Board of Trustees. Botanica warrants that it will maintain a Board of Trustees to govern the Botanica Inc. organization according to its Bylaws (Attachment A). The following representatives shall be permanent members of the Botanica Board:

Mayor or Designee, City of Wichita
City Manager or Designee, City of Wichita
Director of Park and Recreation, City of Wichita
Representative, Wichita Board of Park Commissioners, City of Wichita

B. Employment of Director. The City will select, with the recommendation of Botanica, a Director of Botanica, The Wichita Gardens, who shall be an employee of the City and who will supervise the overall operation of Botanica, The Wichita Gardens. The City shall establish the Director's compensation and other terms and conditions of employment as required by the City personnel policies. The Director shall also serve as the Executive Director of Botanica.

Botanica agrees that the Director, as a City employee, has specific reporting obligations to the City Council, the City Manager, and the Director of Parks and Recreation. In addition, Botanica agrees that the Director shall participate, in all activities required by the City and will be subject to the City Ordinances and the City of Wichita Administrative Regulations.

C. Employees. Under the supervision of the Botanica Board of Trustees, Botanica shall have the entire direction, control and management of all persons employed by Botanica Inc., including the authority to hire and to terminate them, and to fix their compensation, wages, benefits, sick leave, health insurance, and annual leave. No employee or agent of Botanica shall, in any way, be deemed to be an employee or agent of the City. The City shall not direct, act on the behalf of, nor be liable for the actions of any Botanica employee. The Director shall have the authority to hire, terminate, and otherwise deal with Botanica employees in accordance with the policies and procedures adopted by the Botanica Board of Trustees.

The Director shall manage the City of Wichita employees employed at Botanica, The Wichita Gardens, to perform the tasks that promote the mission of Botanica in compliance with City Personnel Policies and Procedures and subject to City Administrative Regulations. City employees will be classified and receive compensation according to the positions described in the City Personnel Policies. Botanica shall not be liable for any claims made by employees of the City arising from and out of their employment relationships.

5. Operations:

A. Rules of Operation. Botanica agrees to adopt, publish and enforce reasonable rules and regulations governing the conduct of visitors to Botanica, The Wichita Gardens, consistent with the provisions of this agreement, which rules and regulations may be revised by Botanica from time to time. Such rules and regulations must comply with legal requirements.

B. Admission Fees. Botanica shall have the right to establish, collect and retain all fees for admission including memberships to Botanica, The Wichita Gardens and for all activities held therein. The parties agree that reasonable operating and depreciation reserves, endowments, and future plans for growth may be considered in establishing the amount of such fees.

C. Concessions. Botanica shall have the exclusive authority to operate, or to cause to be operated, all concessions on Botanica property and to establish, collect and retain all charges derived from such concessions for Botanica.

D. Rentals. Botanica shall have the exclusive authority to establish, collect and retain all rent and other charges and fees for the use of the property and or facilities that are possessed by Botanica, subject to the obligation to indemnify City against losses and damage suffered to the real estate, including its improvements comprising Botanica, The Wichita Gardens, resulting from rental use.

6. Financial Considerations:

A. Gifts and Endowments. Botanica agrees to exert its reasonable efforts to secure gifts of cash, property, in kind goods and services for exhibits, bequests, and endowments for structures and other capital improvements. Botanica agrees to endeavor to show continual positive growth in private financial support measured on a rolling average of the three past accounting years.

B. Funding. Funding provided by the City through the Cultural Arts program or from the City's general fund will be administered under the established accounting and fiscal policies of the City of Wichita. Botanica shall remain one the major cultural arts organizations classified as a group I organization until such time as the City Council's Cultural Arts plan is amended or rescinded. In return for performance of duties as provided in this Agreement, and to provide financial stability for planning purposes, the City agrees to provide annual Cultural Arts funding for the operations of Botanica, The Wichita Gardens in the following calendar years and

projected amounts. The projected amounts shall be approved annually by current City Council through the budget process:

2010	$288,700
2011	$292,560
2012	$301,336
2013	$310,376
2014	$319,687

Botanica shall have equitable opportunity for additional funding under the competitive Cultural Arts Funding process and will limit expenditures and follow conditions described in the contract provided by the City.

C. Use of Funds. Botanica agrees that the assets and resources of Botanica and any funds provided by the City will be used solely and exclusively for the benefit of Botanica, The Wichita Gardens. Botanica may contract directly for capital development or improvement work, provided plans therefore have been approved by the Botanica Board of Trustees and funds are solely from Botanica resources. Any improvements to the real estate and related fixtures will become and remain the property of the City. Botanica may directly contract for and purchase plant materials, horticulture supplies and such other items related to Botanica's function so long as funds therefore are provided solely from Botanica resources.

It is agreed and understood by the parties that all endowment and/or restricted funds held by Botanica or any related entity shall be spent in accordance with any laws, rules, policies, and/or restrictions applicable to such funds.

D. Budget. Botanica shall develop an annual budget and the Board of Trustees shall approve it. The City shall inform Botanica of annual funding levels in a timely manner for preparation of the Botanica budget. It will be a goal for the Board to maintain an operating reserve to ensure financial security of Botanica, The Wichita Gardens operations in an amount equal to that necessary to satisfy between three (3) and six (6) months of operating expenses.

E. Indebtedness or Liability. Botanica shall have no authority to bind the City or its Board of Trustees in any way nor to incur any indebtedness or liability or to place or permit the placing of liens on City property.

F. Audits. Botanica shall arrange an annual independent audit that will be overseen by the Audit Committee appointed by the Botanica Board of Trustees. Inspections of financial documents related to applicable contracts, grants, gifts and trusts shall be provided upon a reasonable notification of inspection.

G. Documentation of Costs. Botanica shall document all costs with respect to the services provided to Botanica, The Wichita Gardens, under contracts, grants, gifts, trusts and City will provide documentation of in-kind services, parts and equipment provided, and such records shall be supported by properly executed payrolls, time records, invoices or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, orders or other accounting documents shall be clearly identified and readily accessible.

H. Maintenance of Records. Botanica shall maintain records according to the prescribed requirements within contracts, grants, gifts, trusts, City in-kind services and City Finance Department policies and shall retain such financial records for a period of three years, unless otherwise specified.

7. Capital Improvements:

A. Improvements. Botanica shall have the authority to recommend for approval the future design and development of Botanica, The Wichita Gardens. Projects may be funded by private funds donated to Botanica and public funds provided by the City.

B. Public Funds. All improvement projects funded with public funds shall be approved by the City Council.

C. Private Funds. Projects funded by private funds may be contracted directly between Botanica and private contractors or Botanica may pass funds through the City and the services will be acquired through the City's Purchasing Department.

D. Ownership. Botanica understands and agrees that all buildings, structural and garden improvements provided by Botanica become the property of the City. Irrespective of its ownership status, the City shall not be obligated to maintain any improvement to the real estate erected after the date of execution of this agreement without express City Council approval.

E. Contractual Right. Botanica reserves the right to contract with other individuals, agencies, institutions, organizations or firms for services deemed necessary to the operation of Botanica, The Wichita Gardens, or in the public interest with the use of private funds.

8. Utilities: Botanica shall pay all deposits and charges for electricity, water, gas, telephone, garbage and trash collection and other utilities and charges for services used by or furnished to Botanica, The Wichita Gardens. Botanica shall acquire and maintain all meters, permits, approvals, and licenses necessary to effectuate this provision. City, as owner of the land underlying Botanica, The Wichita Gardens, will cooperate with Botanica's reasonable requests in connection with establishing or maintaining such utilities.

9. Care and Maintenance. Botanica agrees to provide for the custodial upkeep of the buildings. The City's Department of Public Works will continue to provide repairs and replacement of major items including plumbing, electrical, structural and HVAC that are required to maintain the functionality of the

buildings currently existing and all Council-approved newly constructed buildings. Insurance for City owned buildings shall be maintained by the City. Botanica shall be responsible for the upkeep and maintenance of the garden exhibits and the City's Department of Parks and Recreation will continue to provide consultation and in-kind services to that end.

10. Parking lot Maintenance. The City shall, at its sole expense, maintain the existing parking lot constructed for use at Botanica, The Wichita Gardens.

11. DISCRIMINATION PROHIBITED. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this agreement or any program related to this agreement shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with the funds made available through this agreement on the grounds of race, color, national origin, ancestry, religion, sex, age or disability. Botanica 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 Attachment B attached hereto.

12. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments in the performance of this contract.

13. ASSIGNABILITY. Neither party shall assign or delegate any interest or duty related to this agreement without the consent of both parties.

14. TERMINATION CLAUSE. In the event of a breach of this agreement either by Botanica or the City, both parties shall as soon as possible negotiate a work-out plan to ensure that Botanica, The Wichita Gardens, continues to function to preserve the assets and improvements made by the City and Botanica supporters and donors.

15. AMENDMENTS. To provide necessary flexibility for the most effective execution of this agreement, whenever both the City and Botanica mutually agree, changes in this agreement may be effected by placing them in written form and incorporating them into this agreement.

16. RENEGOTIATION. This agreement may be renegotiated in the event alternate sources of funding become available during the term of this agreement.

17. APPENDICES. All attachments referenced in this agreement are hereby incorporated as though fully set forth herein.

Attachment A – Botanica Inc. Bylaws of the Board of Trustees

Attachment B – Nondiscrimination and Equal Employment Opportunity Statement

IN WITNESS WHEREOF, the parties have executed this contract on the 20th day of October, 2009.

Botanica Inc.

Peter Salmeron, President
Botanica Inc.

June 24th, 2009
Date

CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

10-20-09
Date

ATTEST:

Karen Sublett, CMC
Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

Attachment A
BOTANICA, INC.
BYLAWS OF THE BOARD OF TRUSTEES

Adopted August 21, 1985	**Amended August 21, 1991**	**Revised January 17, 2001**
Amended October 14, 1985	**Amended October 20, 1993**	**Revised September 21, 2005**
Amended December 13, 1989	**Amended October 15, 1997**	**Revised January 16, 2008**
Amended December 12, 1990	**Revised December 22, 1998**	

ARTICLE I
OFFICE AND REGISTERED AGENT

Section 1. Principal Office. The principal office of the corporation shall be located at the headquarters in Sim Park, 701 Amidon, in Wichita, Kansas, or at such other place as may be determined by the Board of Trustees.

Section 2. Registered Office and Agent. The corporation shall have and continuously maintain a registered office and a registered agent in the State of Kansas as required by the Kansas Corporation Code. The registered agent shall be either an individual resident of the State or a member of the Board of Trustees authorized to transact business in the State.

ARTICLE II
PURPOSES AND GOVERNMENT

The corporation is a nonprofit, scientific and educational organization founded to foster, promote, develop and operate the Wichita Botanical Gardens known as Botanica, The Wichita Gardens. The corporation shall be governed by a Board of Trustees.

ARTICLE III
BOARD OF TRUSTEES

Section 1. Powers. There shall be a Board of Trustees which shall supervise and control the business, property, and affairs of the corporation except as otherwise expressly provided by law, the Articles of Incorporation, or these Bylaws. The Board of Trustees shall abide by all Botanica, Inc's Bylaws and Policies.

Section 2. Number and Qualifications. The Board of Trustees of the corporation shall be composed of no more than 24 members including representation from each of the following, all of whom have voting privileges except those noted:

City of Wichita Representation – Non-Voting

1) Mayor or Designee, City of Wichita, non-voting
2) City Manager or Designee, City of Wichita, non-voting
3) Director of Park and Recreation, City of Wichita, non-voting
4) Representative, Wichita Board of Park Commissioners, City of Wichita, non-voting

Organizational Representation – Voting

5) Representative, Friends of Botanica
6) Representative, Wichita Area Garden Council
7) Representative, Project Beauty
8) Immediate past president, Botanica, Inc., Board of Trustees
9) Emeriti Trustee, nominated by the Governance Committee as noted in Article X, Section

Section 3. Election and Term of Office. The members of the Board of Trustees shall be elected by the Board of Trustees at the annual meeting. The Governance Committee will prepare the slate to present at the annual board meeting. Each member of the Board of Trustees, with the exception of the City representatives and the Past President, shall hold office for a term of three years, with a maximum of 2 consecutive terms. The three-year term and maximum of 2 consecutive terms shall apply to the organizational representation and Emeritus Trustee position. The Past President serves a 1-year term. The City representatives serve as long as they serve in their designated position with the City of Wichita.

1) Voting. Voting shall be by written ballot. If there is but one nominee for each available vacancy and no further nominations from the floor, by general consent, the written ballot may be dispensed with and a voice vote taken on the entire slate. If there are more candidates nominated than vacancies available, written ballots for that (those) position(s) shall be taken. The number of candidates who receive the highest number of votes corresponding to the number of vacancies available shall be declared elected. In the event of a tie a subsequent ballot on those candidates shall determine the election.

Section 4. Resignation. Any Trustee may resign at any time by giving written notice to the President of the Board of Trustees. Such resignation shall take effect at the time specified therein, or, if no time is specified, at the time of acceptance thereof as determined by the President of the Board of Trustees.

Section 5. Failure to Attend Regular Meetings and Fulfilling Responsibilities. Failure of a Trustee, with the exception of the City representatives, to attend at least three-quarters of the Board of Trustees' regular meetings in a year will be considered resignation by the Trustee unless a majority of the voting Trustees then in office vote to retain such Trustee. The attendance requirement shall apply to the organizational representation and Emeritus Trustee position.

Section 5a. Removal. Any Trustee, with the exception of the City representatives, may be removed from such office, by a majority vote of the voting Trustees then in office at any regular or special meeting of the Board of Trustees called expressly for that purpose. Removal process shall apply to the organizational representation and Emeritus Trustee position.

Section 6. Vacancies. Vacancies may be filled by majority vote of the remaining voting members of the Board of Trustees then in office for the unexpired term.

Section 7. Regular Meetings. A regular meeting schedule of the Board of Trustees shall be specified by the Board of Trustees. An annual meeting of the Board of Trustees shall be held each year, at such time, day and place as shall be designated by the Board of Trustees.

Section 8. Special Meetings. Special meetings of the Board of Trustees may be called at the direction of the President or by a majority of the voting members of the Board of Trustees then in office; to be held at such time, day, and place as shall be designated in the notice of the meeting.

Section 9. Notice. Notice of the time, day, and place of any meeting, except a special meeting of the Board of Trustees shall be given at least 5 days prior to the meeting. Notice of the time, day, place and purpose of a special meeting of the Board of Trustees shall be given at least 48 hours prior to the meeting.

Section 10. Quorum. A majority of the voting Trustees then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees.

Section 11. Manner of Acting. Except as otherwise expressly required by law, the Articles of Incorporation of Botanica, Inc., or these Bylaws, the affirmative vote of a majority of the voting Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. Each voting Trustee shall have one vote. Voting by proxy shall not be permitted.

Section 12. Written Consent In Lieu of a Meeting. The Board of Trustees may take action without a meeting if written consent to the action is signed by a majority of the voting Trustees then in office.

Section 13. Telephone Meeting. Any one or more Trustees may participate in a meeting of the Board of Trustees by means of a conference telephone or similar telecommunications device, which allows all persons participating in the meeting to hear each other. Participation by telephone shall be equivalent to presence in person at the meeting for purposes of determining if a quorum is present.

Section 14. Conflicts of Interest.

1) In the event any Trustee has a conflict of interest that might properly limit such Trustee's fair and impartial participation in Board deliberations or decisions, such Trustee shall inform the Board of Trustees as to the circumstances of such conflict. If those circumstances require the

nonparticipation of the affected Trustee, the Board of Trustees may nonetheless request from the Trustee any appropriate non-confidential information which might inform its decisions. "Conflict of interest," as referred to herein, shall include but shall not be limited to, any transaction by or with the Board of Trustees in which a Trustee has a direct or indirect personal interest, or any transaction in which a Trustee is unable to exercise impartial judgment or otherwise act in the best interests of the corporation or the Board of Trustees.2) No Trustee shall cast a vote, nor take part in the final deliberation in any matter in which he or she, members of his or her immediate family, or any organization to which such Trustee has allegiance, has a personal interest that may be seen as competing with the interest of the Board of Trustees. Any Trustee who believes he or she may have such a conflict of interest shall so notify the Board of Trustees prior to deliberation on the matter in question, and the Board shall make the final determination as to whether any Trustee has a conflict of interest in any matter. The minutes of the Board of Trustees meeting shall reflect disclosure of any conflict of interest and the recusal of the interested Trustee.

Section 15. Legal Responsibilities.

1) Duty of Care
   a) Members of the Board of Trustees must exercise due care in all dealings with the corporation. Trustees should be reasonably informed about the corporation's activities, participate in collective decisions, and do so in good faith and with the care of an ordinary prudent person in similar circumstances. This includes careful oversight of financial matters and reading of minutes, attention to issues that are of concern to the corporation, and raising questions whenever there is something that seems unclear or questionable
   b) The duty of care is carried out by the following acts:
      i) Attendance at meetings of the Board of Trustees and appropriate committees;
      ii) Advance preparation for Board of Trustees meetings, such as reviewing reports and the agenda prior to meetings of the board;
      iii) Obtaining information (in the context of the Board meeting), before voting to make good decisions;
      iv) Use of independent judgment;
      v) Periodic examination of the credentials and performance of those who serve the corporation;
      vi) Frequent review of the corporation's finances and financial policies; and
      vii) Compliance with the filing requirements, particularly annual information returns.

2) Duty of Loyalty
   a) The duty of loyalty requires members of the Board of Trustees to exercise their power in the interest of the corporation and not in their own interest or interest of another entity, particularly one in which they have a formal relationship. When acting on behalf of the corporation, members of the Board of Trustees must put the interests of the corporation before their personal and professional interests. Conflicts of interest, including the appearance of conflicts of interest, must be avoided. This includes personal conflicts of interest or conflicts with other organizations with which a member

of the Board of Trustees is connected.

b) In practice, the duty of loyalty is carried out by the following acts:
   i) Disclosure of any conflicts of interest;
   ii) i. Adherence to the corporation's conflict-of-interest policy;
   iii) Avoidance of the use of corporate opportunities for the individual's personal gain or benefit; and
   iv) Nondisclosure of confidential information about the corporation.

3) Duty of Obedience
   a) Obedience to the corporation's central purposes must guide all decisions. The Board of Trustees must also ensure that the corporation function within the law, both the "law of the land" and these Bylaws and other policies. The Board of Trustees must remain the guardians of the mission.
   b) The duty of obedience is carried out by the following acts:
      i) Compliance with all regulatory and reporting requirements, such as filing annual information return (usually, IRS Form 990) and paying employment taxes;
      ii) Examination of all documents governing the corporation and its operation, such as these Bylaws and policies; and
      iii) Making decisions that fall within the scope of the corporation's mission and governing documents.

ARTICLE IV
OFFICERS

Section 1. Officers. The officers of the Board of Trustees shall at minimum consist of a President, Vice-President and a Treasurer. The Board of Trustees shall have such other assistant officers as the Board of Trustees may deem necessary and such officers shall have the authority prescribed by the Board. A candidate for each office shall be nominated by the Governance Committee.

Section 2. Election of Officers. The officers of the Board of Trustees shall be elected by the Trustees at the annual meeting of the Board of Trustees.

1) Voting shall be by written ballot. If there is but one nominee for each position and no further nominations from the floor, by general consent, the written ballot may be dispensed with and a voice vote taken on the entire slate. If there are nominations from the floor, written ballots for that office shall be taken. The candidate receiving a majority vote on the written ballot shall be declared elected. In the event of a tie a subsequent ballot on those candidates shall determine the election.
2) Any member of the Board of Trustees, with the exception of the City representatives, may be elected to an officer position.

Section 3. Term of Office. The officers of the Board of Trustees shall be installed at the January meeting, following their election, and shall hold office for one year or until their respective successors

shall have been duly elected. No Trustee shall serve as an officer for more than (2) consecutive terms; provided, however, any time used to fill an unexpired term of a person previously holding such office shall not be included as one such term.

Section 4. Resignation. Any officer may resign at any time by giving written notice to the President of the Board of Trustees. Such resignation shall take effect at the time specified in the notice, or if no time is specified, then immediately.

Section 5. Removal. Any officer may be removed from such office, by a majority vote of the voting members of the Board of Trustees then in office at any regular or special meeting of the Board called expressly for that purpose.

Section 6. Vacancies. A vacancy in any office may be filled by the Board of Trustees for the unexpired term.

Section 7. President. The President shall give active direction and exercise oversight pertaining to all affairs of the Board of Trustees. He or she may sign contracts or other instruments, which the Board of Trustees has authorized to be executed, and shall perform all duties incident to the office of President as may be prescribed by the Board of Trustees.

Section 8. Vice President. In the absence of the President, the Vice President shall perform the duties of the President. The Vice President shall attend all Board of Trustees meetings and carry out special assignments as requested by the President.

Section 9. Treasurer. The Treasurer shall be responsible for and oversee all financial matters of the corporation, with the exception of the Audit Committee. The Treasurer, jointly with the board President, ensures that current records are maintained, reflecting the financial condition of Botanica, Inc.

Section 10. Bonding. If requested by the Board of Trustees, any person entrusted with the handling of funds or valuable property of the Board of Trustees shall furnish, at the expense of the corporation, a fidelity bond approved by the Board of Trustees.

ARTICLE V
COMMITTEES

Section 1. Committees of Trustees. No committee shall have the authority to amend or repeal these Bylaws, elect or remove any officer or Trustee, adopt a plan of merger, or authorize the voluntary dissolution of the Board of Trustees. The following shall be standing committees of the Board of Trustees:

1) Executive Committee:
   a) Members of the committee are the President, Vice President, Treasurer, Chair of Development Committee, and Chair of Governance Committee.
   b) The President chairs the Executive Committee.
   c) The Executive Committee prepares agendas for the meetings of the Board of Trustees, acts on behalf of the Board between meetings, with responsibility to report actions to the Board for ratification or further Board action at the next meeting, carries out specific directions of the Board, and formulates and recommends actions by the full Board prior to implementation. Additionally, the Executive Committee initiates the Board's participation in developing a strategic framework for long-range planning. The Executive Committee also participates, in concert with the City of Wichita, the selection and termination of the Executive Director. The President, who chairs the Executive Committee, is responsible to report to the Board all plans, activities, and accomplishments of the Executive Committee.

2) Finance Committee
   a) Chair of the committee is the Treasurer
   b) Members of the committee will be appointed by the Chair of Finance Committee
   c) Minimum of 3 trustee members and 1 Emeritus Trustee, serving 1 year terms. Non-trustees may be invited to serve as members of the Finance Committee.
   d) The committee shall be responsible for the planning, monitoring, and evaluation of the organization's funding, financial management, facilities, assets, risks, and insurance programs. The committee shall work with the chief executive and the director of finance in developing long-range financial and capital plans; reviewing annual budgets and financial reports; and recommending internal controls and other financial policies to the board. The committee shall perform such other duties as may from time to time be required by the board.

3) Development Committee
   a) Chair of the committee will be a trustee appointed by the President.
   b) Members of the committee will be appointed by the Chair of Development Committee
   c) Minimum of 3 trustee members and 1 Emeritus Trustee, serving 1 year terms. Non-trustees may be invited to serve on the Development Committee.
   d) The role of the Development Committee is to ensure that the organization's total development program is in concert with the organization's strategic direction and needs. The committee serves as the mechanism by which board members and other volunteers are involved in the fundraising process. The Development Committee is charged with focusing the organization and its board on fundraising. This includes constant attention to the mission and case for support, the organization's accountability, the involvement of organization's constituencies, the resources required to carry out the mission, plans for cultivating and soliciting the needed private funds, fundraising involvement, and demonstration of good stewardship.

4) Governance Committee
   a) Chair of the committee will be a trustee appointed by the President
   b) Members of the committee will be appointed by the Chair of Governance Committee.

c) Minimum of 3 trustee members and 1 Emeritus Trustee, serving 1 year terms. Non-trustees may be invited to serve on the Governance Committee.
d) Members of the committee wishing to be elected as officers in any given annual election shall not participate in the officer nominating process in that year.
e) The Governance Committee ensures board effectiveness, maximum participation and performance; recommends new board members for election to the Board and ensures board policies are being observed; implements board development and growth opportunities throughout the year; ensures all board members receive orientation; and annually recommends a slate of officers to the board for approval.

5) Audit Committee:
   a) Chair of the committee will be a trustee appointed by the President.
   b) Members of the committee will be appointed by the Chair of the Audit Committee.
   c) Minimum of 2 trustee members and 1 Emeritus Trustee, serving 1 year terms, plus at least 1 non-trustee member
   d) The Audit Committee ensures that an annual is conducted, serves as liaison with the audit firm, and debriefs the board on its reports. The committee meets annually, in private, with the auditor. The committee reviews and recommends approval of the annual audit and reviews a copy of the annual IRS Form 990. The Treasurer may *not* chair this committee.

Section 2. Other Committees and Task Forces. The Board of Trustees may create and appoint members to such other committees and task forces as they shall deem appropriate. Such committees and task forces shall have the power and duties designated by the Board of Trustees, and shall give advice and make non-binding recommendations to the Board.

Section 3. Term of Office. Each member of a committee shall serve until the next annual meeting of the Board of Trustees and until a successor is appointed, unless the committee is sooner dissolved.

Section 4. Vacancies. Vacancies in the membership of committees may be filled by the President of the Board of Trustees.

Section 5. Rules. Each committee and task force may adopt rules for its meetings not inconsistent with these Bylaws or with any rules adopted by the Board of Trustees.

ARTICLE VI
NOTICE

Section 1. Notice. Whenever under the provisions of these Bylaws notice is required to be given to a Trustee, officer, or committee member, such notice shall be given in writing by first-class mail or overnight delivery service with postage prepaid to such person at his or her address as it appears on the records of the corporation. Such notice shall be deemed to have been given when deposited in the mail

or the delivery service. Notice may also be given by facsimile, electronic mail, or hand delivery, and will be deemed given when sent.

ARTICLE VII
INTERNAL AFFAIRS

Section 1. Indemnification of Trustees and Officers.

a. This corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the corporation), by reason of the fact that such person is or was a trustee, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

b. This corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a trustee, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

1) To the extent that a trustee, officer, employee, or agent of this corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue, or matter therein, such trustee, officer, employee, or agent shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

2) Any indemnification under subsections (a) and (b), unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the trustee, officer, employee, or agent is proper in the circumstances because such trustee, officer, employee, or agent has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (i) by the Board of Trustees by a majority vote of a quorum consisting of trustees who were not parties to such action, suit, or proceeding, or (ii) if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested trustees so directs, by independent legal counsel in a written opinion.

3) Expenses incurred by a trustee or officer in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the trustee or officer to repay such amount if it is ultimately determined that the trustee or officer is not entitled to be indemnified by the corporation as authorized in this section. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the Board of Trustees deems appropriate.

4) The indemnification and advancement of expenses provided by, or granted pursuant to, this bylaw shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any other bylaw, agreement, vote of the members or disinterested trustees or otherwise, both as to action in a person's official capacity and as to action in another capacity while holding such office.

5) The Board of Trustees shall have power to purchase and maintain insurance on behalf of any person who is or was a trustee, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of this bylaw.

6) For purposes of this bylaw, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its

trustees, officers and employees or agents, so that any person who is or was a trustee, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this bylaw with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

7) For purposes of this bylaw, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a trustee, officer, employee or agent of the corporation which imposes duties on, or involves services by, such trustee, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this bylaw.

8) The indemnification and advancement of expenses provided by, or granted pursuant to, this bylaw shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a trustee, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 2. Distributions of Assets. Upon the dissolution of this corporation, the Board of Trustees shall, after paying or making provisions for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United states Internal Revenue law), as the Board of Trustees shall determine. Any such assets not so disposed of shall be disposed of by the district court in the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

Section 3. No Private Benefit. No part of the net earnings of the corporation shall inure to the benefit of any member, Trustee, or officer of the corporation, or to any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation affecting its purpose), and no member, Trustee, or officer of the corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the corporation.

Section 4. Legislative and Political Activity. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the

corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

ARTICLE VIII
AMENDMENTS TO BYLAWS

These Bylaws may be amended or new Bylaws adopted upon the affirmative vote of two-thirds all the voting Trustees then in office at any regular or special meeting of the Board of Trustees. The notice of the meeting shall set forth a summary of the proposed amendments. Only voting Trusteeships occupied at the time of a meeting shall be counted in determining whether a two-thirds vote of the Trustees has acted.

ARTICLE IX
FINANCES

Section 1. Fiscal year. The Fiscal Year of the corporation shall begin on the first day of January and end on the thirty-first day of December of each year.

Section 2. Deposits. All monies, securities, drafts or other monetary instruments received by the corporation shall be deposited to the account of the corporation as prescribed by the Board of Trustees.

Section 3. Authorized Signatures. All checks and drafts drawn on corporation's depositories shall require two (2) authorized signatures. Authorized signatures include the President, Vice President, Treasurer and Executive Director, and others that may be approved by the Board of Trustees. In no event shall both signatures be spouses or family members.

Section 4. Emergency Expenditures. The officers of the Board of Trustees shall have the authority to make expenditures up to $10,000 in the event of an emergency confirmed by the Audit Committee.

Section 5. Budget. The annual budget shall be prepared by the Finance Committee, the Executive Director and the staff. Final approval will be by the Board of Trustees prior to the end of the fiscal year.

Section 6. Audit. Annual independent audit will be overseen by the Audit Committee.

ARTICLE X
STAFF AND OTHER ORGANIZATIONS

Section 1. Executive Director. The Executive Director shall be employed by the City of Wichita with recommendation of the Board of Trustees. The Executive Director shall be responsible for the daily operation of the corporation subject to the authority of the Board of Trustees. It shall be the duty of the

Executive Director to keep the Board of Trustees informed at all times of the functioning of the corporation. The Executive Director shall make regular reports at meetings of the Board of Trustees, shall meet with the committees of the Board of Trustees when appropriate, and shall implement policies adopted by the Board of Trustees.

Section 2. Other Staff. The Executive Director is responsible for the hiring, promoting and evaluation of the corporation's staff. Staff positions are established or eliminated on the recommendation of the Executive Director and approval of the Board of Trustees.

Section 3. Friends of Botanica. Friends of Botanica is a group established in 1986 to support and promote the interests and growth of Botanica. Friends of Botanica's Board of Directors and committees shall work in concert with the Board of Trustees and staff of Botanica to ensure that the efforts of Friends of Botanica are consistent with the mission, goals and strategic plan of the Botanica Board of Trustees. One member of Friends of Botanica shall be appointed by the group to serve as a voting member of the Board of Trustees and attend its meetings.

Section 4. Emeriti Trustees. The designation Emeritus Trustee was created to recognize past board members' service and contributions to Botanica, Inc. There may be elected such number of Emeriti Trustees, as the Board of Trustees shall determine appropriate. A nominee proposed as an Emeritus Trustee must:

1) Be a former Trustee.
2) Maintain membership in Botanica.
3) Exhibit an ongoing active interest in Botanica
4) Be retired from the Board of Trustees.

Emeriti Trustees shall serve until their death, resignation, or refusal to serve. Emeriti Trustees are encouraged to participate in the Board of Trustee's standing committees and other committees and task forces as formed. One Emeritus Trustee will be nominated by the Governance Committee to serve as a voting member of the Board of Trustees and attend its meetings.

ADOPTED BY THE BOARD OF TRUSTEES this ____ day of _____, 2009.

_____

President

Attachment B

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.

AGREEMENT FOR SUPPLEMENTAL FUNDING OF ARTISTIC DEVELOPMENT

This agreement is entered this **16th day of October, 2012** between the City of Wichita, KS, a municipal corporation, (hereinafter referred to as the "CITY") and **The Arts Council**, **Inc.**, a not-for-profit organization, (hereinafter referred to as "Provider").

WITNESSETH:

WHEREAS, the CITY is interested in providing funding for non-profit and governmental partners to aid the development of programs providing for the general artistic and cultural enhancement of the community, and

WHEREAS, Provider, has the facilities, expertise and ability to provide services and programs to that end, and has presented a favorable proposal to accomplish that purpose to the benefit of the community's general welfare;

NOW, THEREFORE, the parties agree as follows:

I. ***Term***. The services of Provider are to begin **January 1, 2013 through December 31, 2013** and shall be undertaken and completed in such sequence as to assure their expeditious, satisfactory completion in light of the purposes of this agreement. This agreement shall remain in force through the completion of all requirements found within the attached Scope of Services, which requirements shall in any event be completed later than one year from the date of execution.

II. ***Services to be performed***. Provider shall perform the services described in the attached Scope of Services (Attachment A), which is made a part of this agreement by reference. The CITY shall be responsible for meeting any obligations set out for it in Attachment A according to the terms stated in that document.

III. ***Billing and Payment.*** The services rendered by Provider pursuant to this agreement shall be compensated in a total amount not to exceed **Six thousand four hundred thirty one dollars ($6,431)** payable in four equal, quarterly installments and due the first business day of the month upon presentation of a detailed invoice by PROVIDER beginning **January, April, July and October, 2013.** The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, and relevant and timed.

IV. ***Independent Contractor Status.*** Provider's status for conduct of tasks described herein shall be as an independent contractor, and not as an agent or employee of the CITY. Any and all employees or agents of Provider while engaged in the performance of any work or service required by Provider under this agreement shall be considered employees of Provider only and not of the CITY. Any and all claims that may arise under the Kansas Workers' Compensation Act on behalf of said employees while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of Provider's employees or agents while so engaged in any of the work or service anticipated herein shall be the sole obligation and responsibility of Provider.

V. ***Acceptance Procedure.*** Provider shall render the deliverables described in Attachment A, under the terms and conditions thereof. If the CITY believes the completed work does not conform to the requirements of the agreement, it shall notify Provider in writing thereof, within the above-mentioned twenty (20) days and shall indicate with particularity in what manner the project fails to conform. In the absence of such notice of non-conformance, acceptance of the work will be presumed.

VI. ***Nondiscrimination in Employment.*** During the performance of this agreement, Provider agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, ancestry or national origin. The CITY's anti-discrimination requirements, attached as Attachment B, are made a part of this agreement by reference.

VII. ***Termination by the CITY.*** If, for any cause, Provider shall fail to fulfill its obligations under this agreement in a timely and proper manner as required by this agreement, or if Provider shall violate any of the covenants, agreements, or stipulations of this agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to Provider of such termination, effective thirty (30) days following receipt of same, provided, however, that Provider shall be provided a reasonable time within which to remedy such deficiencies. Provider shall be entitled to receive just and equitable compensation for any satisfactory services completed prior to the effective date of such termination.

VIII. ***Termination by Provider.*** Provider may terminate this agreement at any time for failure of the City to comply with any material terms or conditions of this agreement, effective thirty (30) days following receipt, provided, however, that the City shall be provided a reasonable time within which to remedy such deficiencies.

IX. ***Governing Law.*** The laws of the State of Kansas shall govern the validity, construction, interpretation, and effect of this agreement.

X. ***Waivers.*** The failure of the parties to enforce, at any time, the provisions of this agreement or to exercise any option which may be provided herein shall not be construed as a waiver of such provisions or to affect the validity of this agreement or any part thereof or the right of the parties to enforce thereafter each and every provision and to exercise any such option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this agreement shall be taken and construed as cumulative, that is, as being in addition to every other remedy provided by operation of law.

XI. ***Representatives of Contracting Parties.*** The following designated parties shall represent the parties to this Agreement for notification and communication as may be required:

(a) Representing the City:

John D'Angelo, Manager
Division of Arts & Cultural Services
225 W. Douglas
Wichita, Kansas 67202
316-303-8600

(b) Representing the Provider:

Sharon Fearey, Chair of the Board
The Arts Council
334 N. Mead
Wichita KS 67202
316-462-2787

XII. ***Insurance and Indemnification.***
Provider shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of Provider, its officers, agents, servants, or employees, occurring in the performance of its services under this agreement. Provider will carry insurance of the type and in the amounts, if any, as required in the Scope of Services. Use of such coverage to policy limits shall not extinguish any remaining liability to the CITY to the extent that the claim against the CITY remains unresolved.

XIII. ***Prohibition against Assignment and delegation.*** Notwithstanding any other provision of this agreement, Provider warrants that none of Provider's duties under this agreement may be delegated to or sub-contracted to any persons other than those described in Attachment A without the express written permission of the CITY.

XIV. ***Third Party Rights*.** It is specifically agreed between the parties that it is not intended by any of the provisions of this agreement to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

XV. ***Compliance with Laws*.** Provider shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this agreement.

XVI. ***Authorization***. By signing this agreement, the Provider's representative represents that he or she is duly authorized by Provider to execute this agreement, and that Provider has agreed to be bound by all of its terms.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

Arts Council, Inc.

By _____
Sharon Fearey, Chair of the Board, Arts Council, Inc.

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by the City of Wichita, Kansas and The Arts Council that it is the intent of this contract for the **Arts Council** to provide certain documentation to the City of Wichita for operational arts funding.

FIRST, the Arts Council understands and agrees that the City will evaluate outcome-based performance under this contract.

SECOND, the Arts Council understands and agrees to provide documentation as specified in The Arts Council and the City's mutual agreement. Any specifications or provisions in said mutual agreement that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of The Arts Council and the City's mutual agreement are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The Scope of Services of The Arts Council under this contract includes the following:

Goal 1
Continue operation of the Arts Council and adherence to their mission, goals, and strategic plan.

Goal 2
Continue support for the Cultural Funding process.

Goal 3
Develop long-term funding for the arts by increasing the current granting amount by 5%.

The Arts Council is required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/303-8663.

FINANCIAL MANAGEMENT

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. Budget expenditures to ensure that the sums available to The Arts Council are not over expended and that agencies will have funding to carry out operational activities over their entire contract period. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

SEMI-ANNUAL AND FINAL REPORTS

Prepare one (1) semi-annual report and one (1) year-end Final Report which include: accomplishments and adherence to and satisfaction of the original contract purposes based upon outcomes, measurements and issues/needs identified in the process of pursuing the Scope of Services. The two reports will be due to the CITY, Division of Arts and Cultural Services by the weekday on or closest to **July 31, 2013** with the Final Report due to the CITY by the weekday on or closest to **January 31, 2014.** Final Reports will be provided to the Wichita Mayor/City Council Office and to the City Manager's Office.

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Arts Partners, Inc.**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **forty two thousand five hundred dollars ($42,500),** payable in four installments and due the first business day of the months **January, February, March, and April 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** semi-annual reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Arts Partners, Inc.

_____
Katie S. Lynn, Executive Director
Arts Partners, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Arts Partners, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Double the number of teaching artists (six additional artists) presenting meaningful STEM to STEAM programs by December 2013.

Goal 2
Increase the number of meaningful STEM to STEAM residencies offered to schools and early childhood centers by 25% by December 2013.

Goal 3
Provide training for three (3) new Kansas Wolf Trap Early Learning Through the Arts teaching artists by December 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** reports and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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 sub-contract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Botanica, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services, and in addition to the current "Operational Agreement" allocation from the City of Wichita of $310,376, (hereafter known as "Operating Agreement") which is not subject to the terms of this particular document, **CITY** agrees to pay to **PROVIDER** the sum of **three thousand dollars ($3,000)**, payable in four equal, quarterly installments and due the first business day of **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual reports** describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Botanica, Inc.

_____
Marty Miller, Executive Director
Botanica, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Botanica, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase the attendance by 5% of Botanica's Illuminations in 2013, by improved light designs, increased advertisement, and qualitative group participation. .

Goal 2
By the end of 2013, increase the number of families visiting and experiencing activities and programs in the Downing Children's Garden by 2%.

Goal 3
Increase activity in the Butterfly House through education and advertising, during the months of June through September, ultimately increasing the visitation by 2%.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the final FY2012 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** reports and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-discrimination and 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 and 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, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Chamber Music at the Barn**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **ten thousand dollars ($10,000),** payable in four, equal, quarterly installments and due the first business day of the month beginning in **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, and relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Chamber Music at the Barn

_____
Bob Scott, Director
Chamber Music at the Barn

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Chamber Music at the Barn**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Through expanded marketing, increase Bows at the Barn from one-week to a two-week string camp by July, 2013 thereby increasing the number of youth served by 30%.

Goal 2
At least five students participating in the NASAW (Northeast Area Strings Academy of Wichita) will be given scholarships to also participate in Bows at the Barn camp by July 2013.

Goal 3
Through the encouragement of memorial donations and legacy gift planning, establish a reserve fund which will have a year-end balance of $25,000 by December 31, 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Exploration Place, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **thirty seven thousand dollars ($37,000)**, payable in four equal, quarterly installments and due the first business day of **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the, **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

EXPLORATION PLACE INC.

_____
Janice B. Luth, President
Exploration Place, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Exploration Place Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase camp participation by 5% over 2012 from 339 students totaling $45,082 to 356 totaling $47,343 by a) building the brand and the following of our summer camp program that has been expanding dramatically since 2010; b) launching traveling summer camps for upper elementary and middle school age children; c) offering winter break and spring break camps; and d) piloting a satellite summer camp in another part of Kansas.

Goal 2
Increase educational outreach participation by 10% over 2012 from 5,452 students totaling $15,182 to 5,997 totaling $16,697 by expanding from traditional schools and classrooms to afterschool program service providers, preschool and day care centers, and outreach for other groups that provide youth programming during both the school year and summers.

Goal 3
Increase the net revenue of the store by 15% over 2012 from $39,766 in net revenue to $45,731 by benefiting from the analysis of the store in 2012 to improve layout of merchandise, type of merchandise offered, and improving pricing structure.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/303-8663**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agency will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita-Sedgwick County Historical Museum**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services, and in addition to the current base annual allocation from the City of Wichita of $146,446.64 (hereafter as known as "Operational Agreement") which is not subject to the terms of this particular document, **CITY** agrees to pay to **PROVIDER** the sum of **seven thousand dollars ($7,000)**, payable in four equal quarterly installments due the first business day in **January, April, July and October 2013**, upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita-Sedgwick County Historical Museum

_____

Eric Cale, Director
Wichita-Sedgwick County Historical Museum Association

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita-Sedgwick County Historical Museum**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase attendance by Sedgwick County Students by 15% in 2013 (over 2012 attendance).

Goal 2
Increase paid attendance by 5% in 2013 over 2012 attendance.

Goal 3
Match private contributions in 2013 to 2012 level.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the final FY2012 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** reports and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** . Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Kansas Aviation Museum, Inc.** a not-for-profit corporation hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **twenty five thousand dollars ($25,000)** payable in four equal, quarterly installments and due **January, April, July and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Kansas Aviation Museum, Inc.

_____
Lon Smith, Director
Kansas Aviation Museum, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Kansas Aviation Museum, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Develop a comprehensive exhibit area by October by 2013 that is organized around a series of learning stations intended to impart information about airport organization, runway design, principals and properties of flight and the like. This exhibit /learning center will become part of the Kansas Aviation Museum Learning Tour program and will be located on the third floor atrium level.

Goal 2
Increase membership revenue by 10% over 2012 by way of point of sale training for hourly employees working that station. Increased revenues that result from this goal will better position the museum to achieve its stated mission.

Goal 3
Utilize funding to offer scholarships to four campers at each of four aviation camps offered in 2013 in an effort to make the camps available to disadvantaged youth in the community.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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, sub-purchase order or sub-agreement 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Opera Kansas d.b.a. Lyric Opera of Wichita**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **three thousand dollars ($3,000),** payable in four, equal, quarterly installments and due the first business day of the month beginning in **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, and relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Opera Kansas d/b/a Lyric Opera of Wichita

_____
Sherri Pilgreen, President
Opera Kansas d/b/a Lyric Opera of Wichita

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Opera Kansas d/b/a Lyric Opera of Wichita**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Upgrade quality and effectiveness of our youth education programs by providing a participatory, co-curricular performance experience to young people. This initiative involves creating a company of student performers presenting the children's opera Brundibar to their peers. The work was premiered and performed 55 times by the children of the Theresienstadt concentration camp between September, 1943, and October, 1944. Its theme is anti-bullying and working together to overcome difficulty. The program is designed to provide a co-curricular study of music, the Holocaust, and anti-bullying. It will employ as many as 30 youth performers and reach at least 10% more young people in 2013 than the current performance based program in 2012. The education effectiveness for the program will be measured through formal evaluation by teachers and administrators of student experience and retention.

Goal 2
Increase attendance and earned income at general public events in 2013 by 10% over2012 levels through smarter marketing and better use of advertising dollars.

Goal 3
Increase visibility and public awareness of the organization by upgrading the attractiveness and interactive features of the website to generate at least 10% more visitors in 2013 over 2012.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Mid-America All-Indian Center, Inc.** a not-for-profit corporation, hereinafter called **"PROVIDER."**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services, and in addition to the current base annual allocation from the City of Wichita of $170,028.85 (hereafter known as "Operational Agreement") which is not subject to the terms of this particular document, **CITY** agrees to pay to **PROVIDER** the sum of **six thousand dollars ($6,000)**, payable in four equal quarterly installments and due the first business day of the month beginning **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Mid-America All-Indian Center, Inc.

_____
Lynn Stumblingbear, Chair of the Board
Mid-America All-Indian Center, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Mid-America All-Indian Center, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
MAAIC will secure $8,000 in funding for the Hall of Dances oral histories by December of 2013.

Goal 2
MAAIC will complete construction of four (4) entire sets of dance regalia for the Hall of Dances Exhibit by December of 2013.

Goal 3
MAAIC will implement a development program for contributions to the Hall of Dances at the July 2013 All Indian Festival.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports
Prepare one (1) semi-annual **PROVIDER** report and one (1) year- end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 hereunder.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-discrimination and 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 and 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 revisions 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Museum of World Treasures Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **fifteen thousand dollars ($15,000)** payable in four equal, quarterly installments and due the first business day beginning **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from

the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof

any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Museum of World Treasures, Inc.

_____

Mike K. Noller, President
Museum of World Treasures, Inc.

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Museum of World Treasures, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Reduce cash withdrawals from reserves to under $30,000 in 2013, versus $88,300 projected in 2012.

Goal 2
Fabricate and open two temporary exhibits and two permanent exhibits in 2013.

Goal 3
Train the Collections Department staff in digitization of documents and artifacts by December 31, 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services at 316/303-8663**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports
Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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-discriminationand 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 hereunder.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Music Theater of Wichita**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **seventy five thousand dollars ($75,000)**, payable in two installments and due the first business day of the months of **February and June 2013**, upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Music Theatre of Wichita

_____
Wayne Bryan, Producing Artistic Director
Music Theatre of Wichita

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Music Theater of Wichita, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'S proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'S PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Building from what we learn from our 2012 educator workshop, we will offer one workshop for middle school and high school theater teachers with a goal of impacting 75% (20 total) of the middle and high schools in USD 259.

Goal 2
In 2013 MTWichita will train 50 teens in the Apprentice Program, insuring they receive at least 10 hours of instruction and 40 hours of supervised hands-on experience during their two week commitment.

Goal 3
In 2013, MTWichita will increase the number of season ticket holders under the age of 50by 3% using targeted marketing such as social media tools.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

The City will prepare budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 hereunder.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16h day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Orpheum Performing Arts Centre, Inc.** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **twenty five thousand dollars ($25,000)** payable in four equal quarterly installments and due the first business day of the month beginning **January, April, July and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Orpheum Performing Arts Centre, Ltd.

_____
Jennifer Wright, President
Orpheum Performing Arts Centre, Ltd.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Orpheum Performing Arts Centre, Inc.**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase the number of events to a total of 118 events for the year. Toachieve this SMART Goal we must seek additional partnerships as well as ensure we maintain those we have established. We must also find additional underwriting support to help us with the presentation of those we self promote.

Goal 2
Increase our total annual attendance by 15% to approximately 60,000 by the end of 2013. To achieve this SMART Goal, we will increase the number of total events and we will program our theatre with a wide variety of appealing performances and advertise/market them well for maximum audience attendance.

Goal 3
Increase outside funding from individual donors, foundations and corporations to help with operations and programming expenses. To achieve this SMART Goal, our Director of Development will grow our annual giving fund or "Friends of the Orpheum" from $88,000 in 2011to $100,000 by the end of 2013 and increase the amount of underwriting for programming by corporations or foundations from $56,200 to $65,000.

Comment [JCH1]: This is not a SMART goal. It is neither specific nor measurable.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Association for Tallgrass Film Association,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **twenty thousand dollars ($20,000)**, payable in two equal installments and due the first business day of **January and June 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

TALLGRASS FILM ASSOCIATION

_____
Pam Irish, President
Tallgrass Film Association

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Tallgrass Film Association PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Tallgrass Film Association will create jobs and increase staff pay in 2013 by increasing the 2013 staff budget by 20% over 2012.

Goal 2
Tallgrass Film Association will increase visibility by reaching out to neighborhoods and communities beyond the festival's downtown Wichita home base by staging six road show events at historic theaters across Kansas; offering four additional screenings in areas within a 25-mile radius of downtown Wichita, excluding the downtown area; and supplying a periodically updated marketing kit with festival trailer/short film combo four times in 2013 for screening at ten historic and commercial theaters in Kansas (outside the Wichita area).

Goal 3
Tallgrass Film Association will enhance the 2013 festival attendee experience by increasing the number of visiting filmmakers by20% and offering two events staged outdoors.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/303-8663**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agency will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012**, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita State University**, a state educational institution of Kansas, contracting on behalf of its **The Wichita State University Foundation c/o The Edwin A. Ulrich Museum of Art**, hereinafter called **"PROVIDER."**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **thirty eight thousand two hundred twenty six dollars and 60 cents ($38,226.60),** to be allocated to the Edwin A. Ulrich Museum of Art**,** payable in four, equal, quarterly installments and due the first business day of the month beginning **January, April, July, and October 2013** upon presentation of a detailed invoice by PROVIDER. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the PROVIDER are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance.** To the extent permitted by the laws of Kansas, **PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of PROVIDER to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by PROVIDER under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination.** **PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita State University Foundation
Edwin A. Ulrich Museum of Art

_____
Elizabeth King, President & CEO

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita State University Foundation**, contracting on behalf of the **Edwin A. Ulrich Museum of Art**, PROVIDER, that it is the intent of this contract for the PROVIDER to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the PROVIDER understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the PROVIDER understands and agrees to perform services as specified in the PROVIDER's proposal, hereinafter called PROPOSAL, as submitted to the CITY by PROVIDER, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the PROVIDER's PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the PROVIDER under this contract include the following:

Goal 1
Maintain flat private fundraising contributions sustaining the 260% increase realized in FY2007 to FY2011 by stronger networking and marketing the Ulrich Salon circle by December 2013.

Goal 2
Increase Ulrich general membership by 5% from FY2011 level by developing marketing initiative starting in fall 2012 by December 2013.

Goal 3
Generate Miro mosaic conservation fundraising success by finishing the $3 million campaign to restore the world masterpiece for future generations by December 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material, the City of Wichita logo and the following credit line: "**This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, (316)303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to Provider are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports

Prepare one (1) semi-annual provider report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 hereunder.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Art Museum, Inc,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services, and in addition to the current "Operational Agreement" allocation from the City of Wichita of $1,652,524.30, (hereafter known as "Operating Agreement") which is not subject to the terms of this particular document, **CITY** agrees to pay to **PROVIDER** the sum of **six thousand dollars ($6,000)**, payable in four equal, quarterly installments and due the first business day of **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual reports** describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita Art Museum, Inc.

_____
Patricia McDonnell, Executive Director
Wichita Art Museum, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Art Museum, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
The Wichita Art Museum will increase its overall attendance in 2013 by 3%, of 1,512 visitors, over 2011 attendance. This will be done by increasing the participation in educational programming, increasing rentals, and offering more events that are open to the public.

Goal 2
The Museum will increase funds raised in 2013 by a minimum of 15%, or $43,350, over the 2011 fundraising goal through aggressively marketing the Museum and increasing overall fundraising efforts. This brings the total fundraising goal for 2013 to $332,359.

Goal 3
Cultural Funding grant support of $6,000 will cover the general operating costs of marketing and outdoor sculpture conservation. A minimum of $4,000 will cover costs related to conservation of one major outdoor sculpture by year-end 2013 and the remaining grant funds will cover costs related to museum marketing.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the final FY2012 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** reports and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013**, with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-discrimination and 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 and 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, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.

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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Children's Theatre & Dance Center,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **twenty six thousand dollars ($26,000)**, payable in four (4) equal, quarterly installments and due the first business day of the month beginning **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita Children's Theatre & Dance Center

_____
Monica Flynn, Director
Wichita Children's Theatre & Dance Center

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Children's Theatre & Dance Center, PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase attendance in theater classes by 5% or 21, over 2012 attendance by adding new classes 2012-2013 sessions, measured by attendance through March 2013.

Goal 2
Increase attendance at One Upon a Time Shows by 2% or 265 attendees, over 2011 by adding new and innovative shows to our schedule and continuing to work with KWCH-TV promotional advertising, measured by attendance through April 2013.

Goal 3
To maintain level of sponsors for Wichita Children's Professional Touring Company, encoring them to find funding outside of Kansas Arts Commission. This will be measured in March 2013 as we figure the income for the 2012-2013 season.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the **City of Wichita Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the final FY2012 report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** reports and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The report will be due to the CITY by the weekday on or closest to **July 31, 2013**, with the completed calendar year report due to the City by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the **City's Division of Art & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Grand Opera, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **five thousand dollars ($5,000)**, payable in four equal, quarterly installments and due the first business day of **January, February, March and April 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

WICHITA GRAND OPERA, INC

_____

Parvan Bakardiev CEO
Wichita Grand Opera

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Grand Opera, Inc. PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Expand the Kansas Performing Arts Consortium from three participating organizations to five by August 2013.

Goal 2
Provide technical assistance to at least four WGO Young Artists, in the form of: arranging auditions; providing recommendations, performance videos, or other relevant materials; providing coaching sessions in preparation for auditions; offering further performance experience in roles to enhance resumes and portfolios; and other means that may be deemed appropriate by the WGO, in order to facilitate these singers securing contracts with other professional opera companies by August 2013.

Goal 3
Create a cooperative program with Wichita State University's music department with at least four students participating during the 2012-2013 season.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts & Cultural Services, at 316/303-8663**.**

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agency will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Public Library Foundation, Inc.,** a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **forty thousand dollars ($40,000)**, payable in two, equal, installments due the first business day of **January and July 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** semi-annual reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013**. This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The service of the **PROVIDER** is to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita Public Library Foundation, Inc.

_____

Leah Barnhard, Executive Director
Wichita Public Library Foundation, Inc.

_____

Date

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor
City of Wichita

_____

Date

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Public Library Foundation, Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Offer programming of quality and variety to attract a minimum of 8,800 adult attendees at Library programs, an increase of 1% from 2011, by December 31, 2013.

Goal 2
Increase the number of Library visits from 1,164,000 in 2011 to 1,175,640, an increase of 1% by December 31, 2013.

Goal 3
Increase youth participation at Library programs, tours and special events from 60,000 in 2011 to 60,900, an increase of 1.5%, by December 31, 2013. .

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.** The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) yearend Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY by the weekday on or closest to **July 31, 2013,** with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **The Wichita Symphony Orchestra**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **fifty four thousand dollars ($54,000),** payable in two equal installments. **PROVIDER** shall submit its invoices for such installments in January 2013 and April 2013 and payment for such invoices shall be due by **February 26, 2013 and June 29, 2013**, respectively. The Scope of Services sets forth the performance objectives by which **PROVIDER**'s performance shall be measured.

3. **Acceptance Procedure. PROVIDER** shall render the Services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER** semi-annual reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The Services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of PROVIDER to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by PROVIDER under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita Symphony Orchestra

_____
Don Reinhold, Executive Director
Wichita Symphony Orchestra

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **The Wichita Symphony Orchestra**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Continue the work of broadening the audience base recognizing that symphonies today are dependent upon a consortium of audiences, not just the traditional classical audience. To this end, the WSO will add one additional Pops program and implement marketing tools that take advantage of internet resources that can be applied to all programs in targeted, specific strategies. WSO will add 760 new-to-file ticket buyers over the course of the 2012-2013season will obtain and document a return performance purchase by a minimum of 15% first time attendees to a second concert in the same season. In addition to increasing the number of participants, the WSO will phase in competitive pricing structures that utilize the entrepreneurial revenue possibilities of Pops programming and subscription pricing with a goal of increasing earned ticket revenues by 15%.

Goal 2
Implement Board training that begins with a *BoardSource* self-assessment prior to the commencement of the 2012-2013 season, and will develop a plan of action which will include a workshop or other appropriate Board training within 90 days that improves and deepens Board

capacity to increase the annual fund and sponsorships, specifically working with patrons donating $500 and up, with a goal of increasing this level of giving by 10%. Further deepening patron participation, staff driven and Board support annual fund campaigns will target net donor prospects that increase lower level participation (under $1,000) by 75 new donors, or about 10% above the current number of donors.

Goal 3
The WSO will seek to create awareness and enhance the perception of the orchestra's value in the community through collaborations that enhance efforts to broaden and diversify the orchestra's reach to non-traditional and under-served segments of the community. The WSO will implement at least one new collaboration during the 2012-2013 season. Collaborations will be with educational, cultural, and/or social organizations located in Wichita with the goal of enhancing existing educational or cultural programs and/or creating opportunities for under-served populations to experience the symphony orchestra.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on all printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Division of Arts and Cultural Services, at 316/303-8663.

Financial Management
Prepare and present invoices after review for correctness and appropriate documentation that are ready for payment and submit them to the City of Wichita's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.** The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-annual and Final Reports
Prepare one (1) semi-annual **PROVIDER** reports, including one (1) yearend Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The preliminary reports will be due to the CITY by the weekday on or closest to **July 31, 2013**, with the completed calendar year report due to the CITY by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this **16th day of October, 2012,** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Wichita Wind Ensembles**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **two thousand five hundred dollars ($2,500),** payable in four, equal, quarterly installments and due the first business day of the month beginning in **January, April, July, and October 2013** upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall establish require that the performance objectives will be specific, measurable, observable, and relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the services described in Attachment A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Wichita Wind Ensembles

_____
John Taylor, Executive Manager

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Wichita Wind Ensembles**, **PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
The Wichita Wind Ensembles will increase attendance by 5% (from 1,471 to 1,544) at professional band concerts over the 2011 attendance by increased outreach in advertising to the public and to schools by December 2013.

Goal 2
The Wichita Wind Ensembles will increase membership in the student band (advanced and intermediate bands) by 5% (from 82 to 86) over the 2011 membership by additional outreach to the school band programs by December 2013.

Goal 3
The Wichita Wind Ensembles will invest grant dollars in a signature fundraising event that will raise funds to underwrite the costs of bringing a minimum of two (2) nationally renowned guest artists to present performances on concerts with the Wichita Wind Ensembles bands in February, September, and/or November bringing outstanding performance and educational experiences to the Wichita community and the WWE musicians during 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the City of Wichita, **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the complete calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014**. Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

CONTRACT

For

ADMINISTRATION OF GRANT FUNDING

IN SUPPORT OF THE ARTS

THIS CONTRACT entered into this day of **16th day of October, 2012** by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called **"CITY"** and **Sedgwick County Zoological Society**, a not-for-profit corporation, hereinafter called **"PROVIDER".**

WITNESSETH:

WHEREAS, **CITY** desires to provide support for various artistic endeavors within its jurisdiction, and

WHEREAS, CITY has requested competitive proposals for that purpose, which were reviewed by the Cultural Funding Committee composed of Council-appointed community members and various City staff members, and selections from the proposals were recommended to the City Council, and

WHEREAS, **PROVIDER** has submitted a proposal that provides for the beneficial allocation and administration of certain funds to be provided by the **CITY,** has been selected by the **CITY,** and **PROVIDER** is ready, willing, and able to provide the services required by the **CITY.**

NOW, THEREFORE, the parties agree as follows:

1. **Scope of Services. PROVIDER** shall provide to the **CITY** and complete all those services specified in the Scope of Services description attached as Exhibit A, which is incorporated herein by reference.

2. **Compensation.** In exchange for these services **CITY** agrees to pay to **PROVIDER** the sum of **forty three thousand dollars ($43,000)** payable in four equal, quarterly installments and due the first business day of the months **January, April, July and October 2013**, upon presentation of a detailed invoice by **PROVIDER**. The Scope of Services shall require that the performance objectives will be specific, measurable, observable, relevant and timed.

3. **Acceptance Procedure. PROVIDER** shall render the deliverables described in Exhibit A under the terms and conditions thereof. The **CITY** may perform site visits and records reviews to assess **PROVIDER's** performance in fulfilling this contract, and will receive from **PROVIDER semi-annual** reports describing the actions taken and results obtained toward fulfilling the scope of services requirements. The **CITY** shall have thirty (30) working days from the delivery of each semi-annual report prepared hereunder within which to respond in writing to such delivery. If the **CITY** believes any completed semi-annual report does not conform to the requirements of the Agreement, it shall notify **PROVIDER** in writing thereof, within the above-mentioned thirty (30) days and shall indicate with particularity in what manner the report fails to conform. If the report defect is not remedied within 30 days after notice of deficiency, the parties agree that 1/12th of the total contract compensation shall become due to the City as liquidated damages, and not as a penalty.

4. **Term.** The term of this contract shall be from **January 1, 2013 through December 31, 2013.** This contract is subject to termination at either party's discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to the other**.**

5. **Time of Performance**. The services of the **PROVIDER** are to commence as soon as practicable after the date of this contract, and shall be undertaken and completed in a manner to assure their expeditious completion in light of the purposes of this contract within the agreed term.

6. **Indemnification and Insurance. PROVIDER** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **PROVIDER**, its officers, agents, servants, or employees, occurring in the performance of its services under this contract. **CITY** shall save and hold the **PROVIDER** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **CITY**, its officers, agents, servants, or employees, occurring in the performance of this contract.

7. **Independent Contractor.** The relationship of **PROVIDER** to the **CITY** will be that of an independent contractor. No employee or agent of the **PROVIDER** shall be considered an employee of the **CITY**.

8. **Compliance with Laws. PROVIDER** shall comply with all laws, statutes and ordinances that may pertain to the providing of services under this contract.

9. **No Assignment.** The services to be provided by **PROVIDER** under this contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

10. **Non-Discrimination. PROVIDER** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached as Exhibit B, which is incorporated herein by reference.

11. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of this contract to create in the public or any member thereof any rights as a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

12. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

13. **Savings Clause.** If any provision of this Agreement is held invalid or unenforceable by any agency or court of competent jurisdiction, the remaining provisions shall nevertheless remain valid.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

Sedgwick County Zoological Society, Inc.

_____
Steve Onken, Development Director
Sedgwick County Zoological Society, Inc.

_____
Date

CITY OF WICHITA, KANSAS

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

SCOPE OF SERVICES

Administration of Grant Funding in Support of the Arts

It is mutually agreed by and between the City of Wichita, Kansas, hereinafter called CITY, and **Sedgwick County Zoological Society Inc., PROVIDER**, that it is the intent of this contract for the **PROVIDER** to provide certain administrative services to the CITY for arts funding made available herein. The purpose of this Exhibit A is to define the scope of the services to be provided.

FIRST, the **PROVIDER** understands and agrees that the CITY will evaluate performance under this contract.

SECOND, the **PROVIDER** understands and agrees to perform services as specified in the **PROVIDER**'s proposal, hereinafter called PROPOSAL, as submitted to the CITY by **PROVIDER**, and in accordance with provisions of the City's Request for Funding Proposals, hereinafter called RFP, as issued by the CITY. Any specifications or provisions in said PROPOSAL or RFP that are inconsistent with clauses or attachments of this agreement are considered modified or superseded by those clauses or attachments.

THIRD, it is understood and agreed that all provisions of the **PROVIDER**'s PROPOSAL and all applicable provisions of the RFP are incorporated into this agreement by reference to the extent that they are not inconsistent with this contract.

The basic duties of the **PROVIDER** under this contract include the following:

Goal 1
Increase Title 1 attendance by 2% over 2013 by the continuation of funding for Title 1 school programs and the expansion of program opportunities made available to teachers, by December 2013.

Goal 2
Increase public awareness throughout 2013 attendance of the fact that $.25 of every admission and $2.50 of every membership sold goes to support conservation efforts in the wild, by December 2013. .

Goal 3
Decrease our paper usage in 2012 – 2013 by phasing out the Zoo members' seasonally printed newsletter and replacing it with an electronic version, thus saving an estimated 60,000 issues per year, by the end of 2013.

Organizations are required by the terms of the Contract to give recognition to the City of Wichita for its role in providing financial assistance to arts and culture in Wichita. Grant recipients are required to use, on printed material as appropriate, the City of Wichita logo and the following credit line: **"This program is made possible in part by the City of Wichita."** Credit to additional agencies or funding sources may also be required. Failure to give credit for financial assistance is a violation of this Contract. Logos may be obtained from the City of Wichita, Arts and Cultural Services Division, at 316/303-8663.

Financial Management

Prepare and present invoices after review for correctness and appropriate documentation, that are ready for payment and submit them to the **City of Wichita, Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202** for payment. The parties agree the organization will not receive payment on the FY2013 contract, irrespective of any work done or goals accomplished according to the terms of the FY2013 contract, until the Final FY2012 Report is submitted and accepted as approved. Furthermore, the parties agree that failure to timely submit the FY 2013 Final Report shall bar the organization from contracting with the City for FY2014.

Budget expenditures to ensure that the sums available to **PROVIDER** are not over expended and that agencies will have funding to carry out project activities over their entire contract period.

Semi-Annual and Final Reports

Prepare one (1) semi-annual **PROVIDER** report and one (1) year-end Final Report which includes: accomplishments and adherence to and satisfaction of the original contract purposes, and recommendations on future funding, based upon outcomes measurements and issues/needs identified in the process of pursuing the Scope of Services. The reports will be due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **July 31, 2013** with the completed calendar year report due to the CITY, Division of Arts & Cultural Services by the weekday on or closest to **January 31, 2014.** Send one copy of each report to the City's **Division of Arts & Cultural Services, 225 W. Douglas, Wichita, KS 67202.**

Be available to address the City Council on findings and recommendations, upon request.

Exhibit B

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 and 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 there under.

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 and Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and 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 and 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.

Operating Agreement Wichita Historical Museum

1. **Purpose.** The purpose of this Agreement is to define the City of Wichita's financial, personnel and operational relationship with the Wichita-Sedgwick County Historical Museum Association (Museum). The existing lease between the City and the Museum is not subject to change by this agreement.

2. **Term.** The term of this Agreement shall be for a period of five (5) years commencing upon January 1, 2010.

3. **City Funding.** In return for the Museum's performance of duties specified in this Operating Agreement, the City agrees to provide annual funding (payable to the Museum in accordance with Section 5 below) in the following calendar years and amounts:

2010	$136,000.00
2011	$138,040.00
2012	$142,181.20
2013	$146,446.64
2014	$150,840.04

Museum shall maintain its operating reserve to ensure financial security for at least 3 to 6 months of operating expenses.

Museum shall demonstrate average annual growth in earned income and/or private contributions in each rolling three year period covered by this Agreement.

4. **Personnel.** Museum employs no City personnel.

5. **Use of City Funds.** Requested funds in the "Contractual Services Account" will be disbursed by the City to Museum no later than 30 days after submission of approved invoices covering expenses for which said funds are appropriated.

Museum agrees to devote the assets, resources, and funds provided by both the City of Wichita and Museum exclusively for purposes advocating the mission of the Museum. This mission as defined by the Board of Directors is to educate the community and its visitors about local history by collecting, preserving, and interpreting materials reflecting the

heritage of Wichita and Sedgwick County. City funding for the operation of Museum shall be appropriated annually in accordance with the funding agreement in existence between the City and Museum.

6. **Supplemental City funding.** Museum may apply for Operational Grant Cultural Funding through the competitive grant process.

7. **Complete Agreement**. This agreement supersedes all prior agreements between the parties specifically dealing with funding. Unless otherwise noted, it does not apply to prior or existing leases.

8. **Rules of Operation.** Museum agrees to adopt, publish, and enforce reasonable rules and regulations governing the conduct of visitors to Museum consistent with the provisions of this Agreement, which rules and regulations may be revised by Museum from time to time.

9. **Admission Fees.** Museum shall have the right to establish, collect and retain all fees for admission to Museum and for all activities held therein. The amounts of said fees and any changes thereto shall be reported to the City.

10. **Concessions**. Museum shall have the exclusive authority to operate, or to cause to be operated, all concessions on Museum property and to establish, collect and retain all charges derived from such concessions for Museum purposes. Any concessionaire shall comply with all applicable state and local statutes, ordinances and regulations.

11. **Rental.** The Museum staff acting on behalf of the Museum Board shall have the exclusive authority to establish, collect and retain all rent and other charges and fees for use of Museum facilities and property for approved purposes.

12. **Gifts and Endowments**. Museum agrees to exert its reasonable efforts to secure gifts of cash, property, in-kind goods and services and bequests and endowments for structures, capital improvements and the like to be used for advancement of the mission of the Museum.

13. **Budget.** The City agrees to make every good faith effort to properly fund the operation of the Museum for the advancement of the mission of the Museum.

14. **Capital Improvements.** Museum shall have the authority to recommend for approval the future design and development of the facilities used by

the Museum, but no capital or structural improvements to existing buildings or additions or future construction of buildings or additions shall be made without the prior approval of the City.

15. **Utilities.** Museum has paid all deposits for electricity, water, gas, telephone, air conditioning and heating, sewer charges, garbage and trash collection, and all other utilities for services used by or furnished to Museum's facilities, and the City has acquired and maintained all meters, permits, approvals, and licenses necessary to effectuate this provision. Museum has paid, and will continue to pay for all utility charges incurred on the property.

16. **Right to Inspect.** City reserves and shall always have the right to enter Museum's facilities without cost for the purpose of viewing and ascertaining the condition of the same and to protect its interest in the premises or to inspect the operations conducted on said premises.

17. **Ownership of Property.** The original City Hall building, and land, and any and all new facilities constructed or reconstructed on the premises during the term of this Agreement, shall be and remain in the ownership of the City.

18. **Insurance.** Museum agrees to secure and maintain in force throughout the duration of this agreement the following minimum insurance coverage:

A. Comprehensive General Liability covering premises—operations, Broad Form Property Damage and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

B. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each accident

19. **Hold Harmless.** Without regard to the limits of such insurance, but within the requirements of the Kansas Tort Claims Act, Museum and the City agree to save and hold each other harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of its officers, agents, servants, or employees, occurring in the performance of its services under this contract.

20. **Default Cure Period.** Either party's failure to perform any of its obligations under this Agreement after a period of fourteen (14) days (or the additional time, if any, that is reasonably necessary to promptly and diligently cure the failure) after receiving written notice from the other party shall constitute a default under this Agreement. Any such written notice shall give reasonable detail in the nature and extent of the failure and identify the Agreement's provision(s) containing the obligations at issue. If the default continues after such notice and cure period, then the offending party shall be in default and the other party may pursue any remedies given in this Agreement or under the law.

21. **Mechanics Liens**. Museum and the City agree to save and hold each other free and harmless and indemnify each other against all claims for labor and materials in connection with improvements, repair or alterations to Museum that were conducted at the specific request and expense of the other, and the cost of defending against such claims, including reasonable attorney's fees.

22. **Compliance with Law.** Museum shall, at its sole cost and expense, materially comply and secure compliance with all requirements of Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the premises covered by this Agreement, or the operations conducted thereon, and shall faithfully

observe, and secure observance with, in the use of the premises, all Municipal ordinances and State and Federal Statutes now in force or which may hereafter be in force, and shall pay before delinquency all taxes, assessments, and fees assessed or levied upon Museum or the premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Museum or by reason of the business or other activities of Museum upon or in connection with said premises. Museum specifically agrees to maintain a tax exempt status per applicable state and federal revenue and taxation codes during the entire term of this agreement. Failure to maintain such tax exempt status shall be considered a material default of this agreement.

23. **Accounting, Record Keeping, Audit.** All accounting for the receipt and disbursement of City funding shall be performed in accordance with generally accepted accounting principles for governments. City shall make all such records available to the Museum or its authorized representative during normal business hours.

    All accounting for the receipt and disbursement of Museum funds shall be performed in accordance with generally accepted accounting principles for nonprofit organizations. Museum shall, within 180 days of the end of each year, make available to the City financial statements for the year together with an independent auditor's report signed by a certified public accountant. Museum shall make all financial records available to the City or its authorized representative for inspection, review, or audit during normal business hours.

24. **Changes in By-Laws.** Any proposed changes in the corporate powers or structure of Museum, or its by-laws which would materially affect its ability to carry out the purposes of this Agreement shall be immediately communicated to the City.

25. **Equal Employment Opportunity.** Museum shall ensure that all services and facilities offered and operated by Museum in connection with Museum are open and available to all members of the public regardless of race, religion, national origin, sex, disability and political belief.

    Museum shall observe the provisions of the Kansas Act against Discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin, age or ancestry.

In all solicitations or advertisements for employees, Museum shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.

26. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provision of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-29350), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the reasoned opinion of its legal counsel, the Agreement may be deemed to violated the terms of such laws.

27. **Non-Assignability.** Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the written consent of the other party.

28. **Organization's Governing Board.** It is mutually understood and agreed by the parties hereto that under no circumstances shall the City make any claim to any of the assets of the organization's governing board or its successor. The Museum shall have one (1) City Council appointed designee on the Board of Directors of the governing board, but prior to any appointment the City shall consider the recommendations of the Museum's Board of Trustees regarding such appointment.

29. **Annual Reports.** Museum agrees to submit, on an annual basis, a State of the Organization report similar to a Board of Directors' report that addresses financial stability, growth and strategic planning. The annual report should also address paid attendance, programming growth, capital improvements (if any) and the most current IRS 990 form. The organization agrees to undergo an annual review process. Any deficiencies in performance or stability will require the Board of Directors to work with the City to develop an improvement plan.

30. **Collaboration with Other Organizations**. Museum shall strive to create collaborative partnerships to share resources among multiple cultural arts organizations.

31. **Extensions.** The parties acknowledge that the operation of the Museum requires a collaborative effort by the parties and they, therefore, agree to

negotiate any and all extension, revisions, and amendments to this Agreement in good faith.

THE CITY OF WICHITA, KANSAS

By: _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law
And City Attorney

ATTEST:

_____

WICHITA-SEDGWICK COUNTY HISTORICAL MUSEUM ASSOCIATION

_____
By: PRESIDENT, BOARD OF TRUSTEES

Wichita-Sedgwick County Historical Museum

Mission Statement: The Wichita - Sedgwick County Historical Museum's mission is to educate the community and its visitors about local history by collecting, preserving, and interpreting materials reflecting the heritage of Wichita and Sedgwick County.

Expectations of Board Members

1. **Policy**

   General expectations of Museum Board Members shall be defined in writing and periodically updated for the following purposes:

   A. To allow prospective members to make an informed decision regarding their ability to serve the Wichita-Sedgwick County Historical Museum.

   B. To ensure that the responsibilities of the Board are equitably distributed among the full membership and that adequate commitment is provided to Board-supported events and services.

   C. To provide Board members with a measure of accountability and a means of assessing their own level of performance as a member.

   D. To provide criteria for assessment of the commitment of incumbent board members eligible for reelection or reappointment.

2. **Responsibilities**

   A. Nominating Committee members are responsible for reviewing the general expectations of Museum Board members with candidates at the time of their invitation to serve.

   B. The Executive Director is responsible for including a list of general expectations in each Board member's manual and to acquaint each member with duties of care, loyalty, and obedience.

   C. The President of the Board and the Executive Director are responsible for assessing individual Board member's commitment to these general expectation to ensure full participation of members.

3. **Expectations**

   A. Board members shall demonstrated sufficient knowledge of the Museum to accurately represent its needs and services to the general public. This knowledge shall be gained through:

- Participation in general orientation within two months of appointment to the Board. Content of orientation shall include but is not limited to:
    - History of the Museum
    - Vision, Mission, Core Values, and Goals
    - Operational Budget
    - Organizational Structure
    - Staff and Volunteer Job Descriptions
- Regular review of written program reports and newsletters.
- Attendance at Museum Events.

B. Board members shall actively contribute to planning and business decisions of the Board through:

- Attendance at Board meetings. Minimum attendance expected of each individual Board member is eight meetings.
- Active participation on one or more standing committees annually. Attendance at a minimum of 50% of the meetings is expected.
- Responsiveness to Executive Committee, Committee Chairpersons or staff when asked for information or consultation on matters related to their area of expertise.

C. Board members shall support the Museum sponsored functions and events through assistance, attendance, or financial support.

D. Board members shall make a meaningful financial gift each year of their service. In addition, Board members shall contribute to the needs of the organization through one or more of the following means:

- Identification of potential gifts-in-kind, services, or financial donors within their circle of influence
- Personal contacts with potential donors
- Identification and/or pursuit of grants or foundation funds
- Personal or business services or gifts-in-kind
- Active involvement with special events planning and implementation

E. It is important to our fund development efforts that 100% of our Board members make a financial contribution to the Museum. When we are asking foundations, corporations, and other individuals t make financial contributions in support of our programs, we must be able to say that 100% of our Board members embrace and support the mission and vision of Museum through their commitment of time and resources.

I have reviewed the above expectations and I am committed to support the vision and mission of the Wichita-Sedgwick County Historical Museum.

Operating Agreement Mid-America All-Indian Center Inc.

1. **Purpose.** The purpose of this Agreement is to define the City of Wichita's financial, personnel and operational relationship with the Mid-America All-Indian Center Inc. Any existing leasehold interest of City property held by the Mid-America All-Indian Center Inc. is not subject to change by this Agreement.

2. **Term.** The term of this Agreement shall be for a period of five (5) years commencing upon the 1st day of January, 2010.

3. **City Funding.** In return for the Mid-America All-Indian Center Inc.'s performance of duties specified in this Operating Agreement, the City agrees to provide annual funding (payable to the Mid-America All-Indian Center Inc. in accordance with Section 6 below) in the following calendar years and amounts:

2010	____$157,900.00_____
2011	____$160,268.50_____
2012	____$165,076.55_____
2013	____$170,028.85_____
2014	____$175,129.72_____

Mid-America All-Indian Center Inc. shall maintain its current operating reserve to ensure financial security for at least 3 to 6 months of operating expenses.

Mid-America All-Indian Center Inc. shall demonstrate average annual growth in earned income and/or private contributions in each rolling three year period covered by this Agreement.

4. **Personnel.** Mid-America All-Indian Center Inc. employs no City personnel, but City employees under City direction may be employed to work at the Mid-America All-Indian Center Inc. facility. These City employees are provided at the direction and request of the Mid-America All-Indian Center Board of Trustees based upon agreed positions, duties, and staffing levels. The Mid-America All-Indian Center Inc. is obligated to reimburse the City for the full personnel costs of the City employees provided in this manner, except that the Mid-America All-Indian Center Inc. will not be obligated to reimburse the City for the personnel costs of the City

employees for any time spent working for any department or facility of the City unless said time is for the direct benefit of the Mid-America All-Indian Center Inc.

5. **Employment of the Director.** The City is responsible for the hiring and/or termination of all employees of the City working at Mid-America All-Indian Center Inc., including the Director of the Mid-America All-Indian Center Inc., but shall consult with the Board of Trustees of the Mid-America All-Indian Center regarding such hirings and/or terminations. The Director will supervise the overall operation of the Mid-America All-Indian Center Inc. The City shall establish the Director's compensation and other terms and conditions of employment, but shall consult with the Mid America All Indian Center regarding such compensation and conditions.

   The Director shall take guidance and direction from the Board of Trustees of the Mid-America All-Indian Center Inc., but shall conduct all work under the direct supervision from the Director of Arts & Cultural Services. Mid-America All-Indian Center Inc. and the City agree that the City Manager or Director of Arts & Cultural Services shall consult with the Chairperson of the Board of the Mid-America All-Indian Center Inc. to complete personnel evaluations of the Mid-America All-Indian Center Inc.'s Director and will work in cooperation to determine and establish the appropriate levels of staffing for the facility.

6. **Use of City Funds.** Requested funds in the "Contractual Services Account" will be disbursed by the City to Mid-America All-Indian Center Inc. no later than 30 days after submission of approved invoices covering expenses for which said funds are appropriated.

   Mid-America All-Indian Center Inc. agrees to devote the assets, resources, and funds provided by the City of Wichita exclusively for purposes advocating the mission of the Mid-America All-Indian Center Inc. This mission as defined by the Board of Trustees is to serve as a cultural center and museum dedicated to educating people about and preserving the heritage of the American Indian. City funding for the operation of Mid-America All-Indian Center Inc. shall be appropriated annually in accordance with the funding agreement in existence between the City and Mid-America All-Indian Center Inc.

7. **Supplemental City funding.** Mid-America All-Indian Center Inc. may apply for Operational Grant Cultural Funding through the competitive grant process.

8. **Complete Agreement**. This agreement supersedes all prior agreements between the parties specifically dealing with funding. Unless otherwise noted, it does not apply to prior or existing leases.

9. **Rules of Operation.** Mid-America All-Indian Center Inc. agrees to adopt, publish, and enforce reasonable rules and regulations governing the conduct of visitors to Mid-America All-Indian Center Inc. consistent with the provisions of this Agreement, which rules and regulations may be revised by Mid-America All-Indian Center Inc. from time to time.

10. **Admission Fees.** Mid-America All-Indian Center Inc. shall have the right to establish, collect and retain all fees for admission to Mid-America All-Indian Center Inc. and for all activities held therein.

11. **Use of Facility.** Mid-America All-Indian Center Inc. shall have the exclusive right to occupy and use the facility and land pursuant to the existing leasehold interest of City property held by the Mid-America All-Indian Center Inc. for advancement of the mission of the Mid-America All-Indian Center Inc., and to establish, collect, and retain all charges derived from any rentals, charges, fees, concessions, or other uses of the facility and land for the furtherance of that mission.

12. **Gifts and Endowments.** Mid-America All-Indian Center Inc. agrees to exert its reasonable efforts to secure gifts of cash, property, in-kind goods and services and bequests and endowments for structures, capital improvements and the like to be used for advancement of the mission of the Mid-America All-Indian Center Inc.

13. **Budget.** The City agrees to make every good faith effort to aid in the funding of the operation of the Mid-America All-Indian Center Inc. for the advancement of the mission of the Mid-America All-Indian Center Inc.

14. **Capital Improvements.** Mid-America All-Indian Center Inc. shall have the authority to recommend for approval the future design and development of the facilities used by the Mid-America All-Indian Center Inc., but no capital or structural improvements to existing buildings or additions or future construction of buildings or additions shall be made without the prior approval of the City.

15. **Utilities**. Mid-America All-Indian Center Inc. shall pay all deposits and charges for two telephone lines, and the City shall be responsible for the balance of the charges for electricity, water, gas, telephone, air conditioning and heating, sewer charges, garbage and trash collection, and all other utilities and charges for services used by or furnished to Mid-America All-Indian Center Inc.'s facilities

16. **Right to Inspect.** City reserves and shall always have the right to enter Mid-America All-Indian Center Inc.'s facilities without cost for the purpose of viewing and ascertaining the condition of the same and to protect its interest in the premises

17. **Care and Maintenance**. The City agrees to provide for the upkeep of the buildings and grounds of Mid-America All-Indian Center Inc.'s facilities, to make any and all reasonably necessary repairs, replacements, renewals, to all of the property, real and personal, over which Mid-America All-Indian Center Inc. exercises responsibility under this agreement.

18. **Ownership of Property.** All buildings and land, including any and all new facilities constructed or reconstructed on the premises during the term of this Agreement at the request and expense of the City, shall be and remain in the ownership of the City, including the area commonly known as the Keeper of the Plains Plaza. All outdoor exhibits, including, but not limited to, the Village Encampment Exhibit and the Heritage Pole, shall be and remain in the ownership of the Mid-America All-Indian Center Inc.

19. **Insurance.** Mid-America All-Indian Center Inc. agrees to secure and maintain in force throughout the duration of this agreement the following minimum insurance coverage:

    Comprehensive General Liability covering premises—operations, Broad Form Property Damage and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

20. **Hold Harmless.** Without regard to the limits of such insurance set out in section 20, but within the requirements of the Kansas Tort Claims Act, Mid-America All-Indian Center, Inc. and the City agree to save and hold each other harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions

or negligent acts of its officers, agents, servants, or employees, occurring in the performance of its services under this contract.

21. **Default Cure Period.** Either party's failure to perform any of its obligations under this Agreement after a period of fourteen (14) days (or the additional time, if any, that is reasonably necessary to promptly and diligently cure the failure) after receiving written notice from the other party shall constitute a default under this Agreement. Any such written notice shall give reasonable detail in the nature and extent of the failure and identify the Agreement's provision(s) containing the obligations at issue. If the default continues after such notice and cure period, then the offending party shall be in default and the other party may pursue any remedies given in this Agreement or under the law.

22. **Mechanics Liens.** Mid-America All-Indian Center Inc. and the City agree to save and hold each other free and harmless and indemnify the other against all claims for labor and materials in connection with improvements, repair or alterations to Mid-America All-Indian Center Inc. that were conducted at the specific request and expense of the other, and the cost of defending against such claims, including reasonable attorney's fees.

23. **Parking Lot Maintenance.** City shall at its sole expense, pave and perform all maintenance on the existing parking lot constructed for use at Mid-America All-Indian Center Inc.'s facilities and shall maintain such parking lot in good condition and repair.

24. **Compliance with Law.** Mid-America All-Indian Center Inc. shall, at its sole cost and expense, materially comply and secure compliance with all requirements of Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the premises covered by this Agreement, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the premises, all Municipal ordinances and State and Federal Statutes now in force or which may hereafter be in force, and shall pay before delinquency all taxes, assessments, and fees assessed or levied upon Mid-America All-Indian Center Inc. or the premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by Mid-America All-Indian Center Inc. or by reason of the business or other activities of Mid-America All-Indian Center Inc. upon or in connection with said premises. Mid-America All-Indian Center Inc. specifically agrees to maintain a tax exempt status per

applicable state and federal revenue and taxation codes during the entire term of this agreement. Failure to maintain such tax exempt status shall be considered a material default of this agreement.

25. **Accounting, Record Keeping, Audit.** All accounting for the receipt and disbursement of City funding shall be performed in accordance with generally accepted accounting principles for governments. City shall make all such records available to the Mid-America All-Indian Center Inc. or its authorized representative during normal business hours.

    Mid-America All-Indian Center Inc. All accounting for the receipt and disbursement of Mid-America All-Indian Center Inc. funds shall be performed in accordance with generally accepted accounting principles for nonprofit organizations. Mid-America All-Indian Center Inc. shall, within 120 days of the end of each year, make available to the City financial statements for the year together with an independent auditor's report signed by a certified public accountant. Mid-America All-Indian Center Inc. shall make all financial records available to the City or its authorized representative for inspection, review, or audit during normal business hours.

26. **Changes in By-Laws.** Any proposed changes in the corporate powers or structure of Mid-America All-Indian Center Inc., or its by-laws which would materially affect its ability to carry out the purposes of this Agreement shall be immediately communicated to the City.

27. **Equal Employment Opportunity.** Mid-America All-Indian Center Inc. shall ensure that all services and facilities offered and operated by Mid-America All-Indian Center Inc. in connection with Mid-America All-Indian Center Inc. are open and available to all members of the public regardless of race, religion, national origin, sex, disability and political belief.

    Mid-America All-Indian Center Inc. shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin, age or ancestry.

    In all solicitations or advertisements for employees, Mid-America All-Indian Center Inc. shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission.

28. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provision of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-29350), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the reasoned opinion of its legal counsel, the Agreement may be deemed to violated the terms of such laws.

29. **Non-Assignability.** Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either party without the written consent of the other party.

30. **Organization's Governing Board.** It is mutually understood and agreed by the parties hereto that under no circumstances shall the City make any claim to any of the assets of the organization's governing board or its successor. The City shall have one (1) City Council appointed designee on the Board of Trustees governing board, but, prior to any appointment, the City shall consider recommendations from the Board of Trustees of the Mid-America All-Indian Center regarding such appointment.

31. **Annual Reports**. Mid-America All-Indian Center Inc. agrees to submit, on an annual basis, a State of the Organization report similar to a Board of Director's report that addresses financial stability, growth and strategic planning. The annual report should also address paid attendance, programming growth, capital improvements (if any) and the most current IRS 990 form. The organization agrees to undergo an annual review process. Any deficiencies in performance or stability will require the Board of Trustees to work with the City to develop an improvement plan.

32. **Collaboration with other organizations.** Mid-America All-Indian Center Inc. agrees to use reasonable efforts to create collaborative partnerships to share resources among multiple cultural arts organizations.

33. **Extensions.** The parties acknowledge that the operation of the Mid-America All-Indian Center Inc. requires a collaborative effort by the parties and they, therefore, agree to negotiate any and all extension, revisions, and amendments to this Agreement in good faith.

THE CITY OF WICHITA, KANSAS

By: _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law
And City Attorney

ATTEST:

MID-AMERICA ALL-INDIAN CENTER, INC.

_____
By: Paula D. Langworthy
Chairperson of the Board of Trustees

SECOND SUPPLEMENTAL AGREEMENT
FOR OPERATION AND MANAGEMENT OF
THE WICHITA ART MUSEUM

THIS SECOND SUPPLEMENTAL AGREEMENT entered this date, 10-20-09, 2009, by and between THE CITY OF WICHITA, KANSAS, a municipal corporation ("City") and THE WICHITA ART MUSEUM, INC., a not-for-profit corporation duly organized under the laws of the State of Kansas ("Corporation").

WITNESSETH:

WHEREAS the city succeeded to the ownership and control over all property of the Wichita Art Museum Board effective January 1, 1998, including certain funds and trusts established for the Wichita Art Museum; and

WHEREAS the City and the Corporation entered into an Agreement for Operation and Management of the Wichita Art Museum dated January 6, 1998 ("Agreement"), by which the City designates the Corporation as its agent for the general supervision and care of the Wichita Art Museum and objects of art belonging to the City or exhibited therein; and

WHEREAS the parties supplemented that Agreement on April 14, 1998, to delegate the management and use of the trusts to the Corporation on behalf of the City and the Corporation undertook and continues those duties and obligations as set forth in that Supplemental Agreement; and

WHEREAS the parties desire to further supplement that agreement to clarify their financial relationships;

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

I. The Agreement is amended and supplemented to provide as follows:

A. Paragraph IV. B. 6. Of the Original Agreement shall be amended to add, at its conclusion, the following: The Board shall endeavor to show continual positive growth in private financial support measured on a rolling average of the three past accounting years.

B. Paragraph IV. B. 8. Of the Original Agreement shall be amended to add, at its conclusion, the following: The Board shall present annually to the incumbent City Manager and Director of Finance for the City any recommendations for capital improvements to the Museum facility and the potential coordination of those improvements with the Board's plans.

C. Paragraph VII. A. of the Original Agreement shall be amended to add, at its conclusion, the following: In return for performance of duties as provided in this Agreement, and to provide financial stability for planning purposes, the City agrees to provide annual funding for Art Museum operations in the following calendar years and amounts:

2010	$1,534,643.00
2011	$1,557,662.65
2012	$1,604,392.52
2013	$1,652,524.30
2014	$1,702,100.03

The City's provision of the above annual funding does not preclude the Corporation from receiving additional funding through the City's competitive cultural arts funding process during these years.

D. Paragraph VII. C. of the Original Agreement shall be amended, to add at its conclusion, the following: The Board agrees to maintain an operating reserve to ensure financial security of Art Museum operations in an amount equal to that necessary to satisfy between three (3) and six (6) months of operating expenses.

II. Except to the extent specifically modified by this Second Supplemental Agreement, the original provisions of the Agreement, as modified by the initial Supplemental Agreement, remain in force and effect.

IN WITNESS WHEREOF the parties have entered into this Supplemental Agreement on the date written above.

THE CITY OF WICHITA, KANSAS

By: Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law
And City Attorney

ATTEST:

THE WICHITA ART MUSEUM, INC.

By: Marni Vliet, President
Chair

Approved / Accepted By City Council
This JAN 6 1998

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

Supplemented
April 14, 1998

January 5, 1998

COPY

AGREEMENT
FOR OPERATION AND MANAGEMENT OF
THE WICHITA ART MUSEUM

THIS AGREEMENT entered this ____ JAN 6 1998 , by and between THE CITY OF WICHITA, KANSAS, a municipal corporation ("City") and THE WICHITA ART MUSEUM, INC., a not-for-profit corporation duly organized under the laws of the State of Kansas ("Corporation").

WITNESSETH:

WHEREAS the City owns the Wichita Art Museum, a public facility located at 619 Stackman Drive, Wichita, Kansas, and established for the promotion of fine arts and the housing and exhibit of paintings and other objects of art owned by the City, including the Roland P. Murdock collection; and

WHEREAS the Corporation is a not-for-profit corporation authorized to aid, benefit, foster, promote, and support the development and welfare of the Wichita Art Museum and the education and welfare of its patrons; and

WHEREAS the City is authorized by ordinance to enter in an agreement with a not-for-profit corporation for the operation of the Wichita Art Museum: and

WHEREAS the City has determined that it is in the public interest to appoint and employee the Corporation as its agent for the general supervision and care of the Wichita Art Museum and objects of art belonging to the City or exhibited therein; and

WHEREAS the Corporation is authorized and willing to undertake the duties and obligations as set forth in this Agreement;

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

I. General

A. The City hereby appoints and employs the Corporation as its agent to plan, manage, operate, and develop the Wichita Art Museum.

B. The Corporation shall serve as the agent and representative of the City to provide housing, to care for, exhibit and maintain art, including paintings and other objects of art

owned by the City; to acquire by purchase, gift, bequest, or exchange, paintings, prints, statues, and other objects of art; as well as to maintain the Roland P. Murdock collection.

C. All operations of the Wichita Art Museum by the Corporation and its Board of Trustees shall be in accordance with the ordinances of the City of Wichita and the laws of the State of Kansas.

II. Board of Trustees

A. The Corporation shall establish and maintain Articles of Incorporation and By-Laws consistent with this Agreement which provide for organization and structure as set forth in this Section.

B. The membership of the Wichita Art Museum Board shall constitute the membership of the Corporation.

C. The governing body of the Corporation shall be its board of trustees. The Board of Trustees shall be comprised of individuals who represent the broad interests of the citizens of Wichita. The Board members shall serve without compensation.

D. The Board of Trustees should be comprised of not-to-exceed 36 members with staggered terms of office, including the City Manager who shall be an ex-officio, voting member, and additionally the Murdock Trust trustees who shall be ex-officio, non-voting members.

E. The Officers of the Board shall include at least a President, a Vice-President, a Secretary, and a Treasurer. The officers shall serve for such term as shall be established by the Board.

F. The Director of the Wichita Art Museum shall be responsible for the administration and daily operation of the Museum. The Director shall serve in an ex-officio, non-voting capacity on all committees of the Board.

G. The Board should operate through a committee structure but act as a whole on major issues of policy. All members of the Board shall be assigned to a committee.

H. The full Board shall meet on a regular schedule and its meetings shall be open to the public.

I. The Corporation agrees to maintain its status as a not-for-profit corporation, tax exempt under § 501(c)(3) of the Internal Revenue Code, properly organized and registered in the State of Kansas. Any proposed changes in the corporate powers or structure of the Corporation, or its by-laws, which would materially affect its ability to carry out the purpose of this Agreement shall be immediately communicated to the City.

III. Authority of Corporation

A. The Corporation shall have the authority to contract and operate in its own name and in the name of the Wichita Art Museum. The Corporation shall have no power or authority to bind the City by or with any contract, to impose any liability on the City, or to place any lien on property of the City. No act or contract of the Corporation shall be in the name of the City.

B. The Corporation shall have the authority to apply for and receive grants and funding from governmental agencies and private entities. The Board shall have the authority to accept or reject, in whole or in part, gifts of property and cash, including bequests, endowments, and grants appropriate to the objects and purpose of the Museum.

C. All purchases and gifts of property, including objects of art, shall be promptly applied to the use of the Museum. All funds received or raised by the Corporation shall be promptly remitted for the use of the Museum.

D. The Corporation shall have charge of maintaining, arranging, labeling, and exhibiting collections and works of art, with complete administrative control of said property.

E. The Corporation shall have the authority to operate a gift shop and restaurant at the Museum or to enter into contracts with others for such operation.

F. The Corporation shall have the authority to allow the use of the Wichita Art Museum exhibit galleries and rooms for private functions, charitable events, and educational activities under such rules and regulation as may be adopted by the Board consistent with the public purpose of the Museum.

G. No existing building nor any building which is constructed or placed upon the property, either temporarily or permanently, shall be used for the purpose of housing the operation of any multi-game, casino-style gambling on the premises.

IV. Duties of the Corporation and its Board of Trustees

A. The Corporation shall act as trustee or custodian and shall have the general supervision and care over the Wichita Art Museum and over the objects of art owned by the City and others and placed in the Wichita Art Museum.

B. The duties of the Corporation acting through its Board of Trustees shall include:

1. To be responsible for the exhibitions, collections, and programming of the Wichita Art Museum;

2. To adopt necessary rules and regulations for the exhibition and maintenance of the objects of art of the Wichita art museum;

3. To keep the Wichita Art Museum and its exhibits open and available to the public at all reasonable hours as may be determined by the Board;

4. To apply for and receive funds from the State or Federal government or any agencies thereof for the purpose of aiding the Wichita Art Museum;

5. To accept or reject as agent for the City all gifts, donations, and objects of art offered to the Wichita Art Museum and to receive and administer the same in accordance with the provisions of this Agreement;

6. To promote the Wichita Art Museum, be responsible for the sound fiscal management of the Museum, and actively work to raise funds and encourage private support of the Museum;

7. To develop a Museum master plan, marketing and promotional plan, along with other plans and developments as may be required;

8. To establish operating budget priorities for museum services and recommend financing mechanisms for implementation of art museum plans and developments;

9. To make annual reports to the City Council on the state of affairs of the Museum;

10. To perform such other duties and make such recommendations as may be requested by the City Council from time to time.

V. Buildings

The Wichita Art Museum facility shall continue to be owned by the City. The Corporation shall have no authority to transfer title to the building or its fixtures. All structural improvements, changes, or alterations to the facility, and any plans for the same, shall be subject to the final approval of the City.

VI. Objects of Art

The City shall continue to retain title to and be responsible for the objects of art titled in the name of the City or the former Wichita Art Museum Board. No title or any interest in such property shall be transferred, encumbered, or disposed of except by action of the Board, upon approval of the City Council. Any objects of art donated to the Corporation shall be held by the Board and used exclusively for Museum purposes; any funds donated to the Corporation for the purchase of art shall be held by the Board and used exclusively for the Museum. Objects of art designated permanently for Museum purposes by the City shall not be converted to other uses or permanently altered without the consent of the Board, upon approval of the City Council.

VII. Finances.

A. The City shall continue to provide financial support for the operations of the Wichita Art Museum in such amounts as found necessary or desirable by the City Council.

B. The City shall remain financially responsible for the Museum building and its major building systems and structure and the maintenance of the grounds in such manner and with such funding as shall be determined by the City on an annual basis.

C. The Board shall submit an annual budget to the City for approval in such manner as reasonably determined by the City.

D. The Board shall maintain proper books of account as to all funds and property handed by it and shall file with the City an annual operating report covering all financial transactions of the preceding calendar year, such accounting to specifically detail financial transactions involving tax funds.

VIII. Interaction with the City

A. The Director or President shall make annual reports to the City Council on the state of affairs of the Museum, business plan, financial reports, attendance and other critical

statistics, and programming plans for the future. Additional periodic reports on the state of affairs of the Museum should be filed with the City Council in such manner and frequency as requested by the Council.

B. The City shall provide and the Corporation shall use the services of the City's Finance Director, Personnel Director, and City Attorney in such manner and for such services as may be agreed in writing by the Director and City Manager from time to time.

IX. Employees of the Corporation

A. The Corporation through its Board of Trustees shall have the entire control and management of the Wichita Art Museum including the right and power to employee a qualified professional Director and the necessary subordinate employees on such terms as may be determined by the Board. Such Museum employees, however, shall continue to be eligible for City employee benefits as provided under City Council Policy 8 through such procedures as may be agreed in writing by the City Manager and the Director, unless and until changes in the employment relationship are recommended to and approved by both the City and the Corporation.

B. The Corporation shall have the right to contract with individuals or institutions for professional and other services to assist the Director in carrying out the duties under this Agreement.

X. Cash Basis and Budget Laws

It is the intent of the parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.) or the Kansas Budget law (K.S.A. 79-2925). Therefore, notwithstanding anything to the contrary herein contained, the City's obligations under this Agreement are to be construed in a manner that assures that the City is at all time not in violation of the Cash Basis law or the Budget Law

XI. Non-Discrimination

The Corporation shall not discriminate or allow discrimination in its activities or contracts under this Agreement and shall comply with the NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS attached hereto as Exhibit "A".

XII. Non-assignment

This Agreement may not be assigned or transferred by the Corporation without the express written consent of the City, which consent may be denied without cause.

XIII. Termination

A. This Agreement may be canceled and terminated at any time by mutual agreement, or by either party under circumstances and conditions as follows:

1. The Corporation may cancel and terminate this Agreement only after 90 days written notice to the City.

2. The City may cancel and terminate this Agreement at any time by first giving the Corporation's Board 90 days' notice in writing notifying the Corporation that such action is contemplated by the City and is in the public interest. The Corporation shall be given an opportunity to be heard on the matter by the City Council before such action is taken, if requested by the Board. Thereafter the City Council may take such action to cancel or terminate the Agreement as it deems appropriate.

3. Either party may cancel and terminate this Agreement immediately upon written notice in the event of material breach of the provisions of this Agreement, provided that upon written request, the breaching party may have a reasonable time in which to remedy such breach. In the event the breach is not satisfactorily remedied, the party may proceed to the immediate termination of the Agreement.

B. Upon termination of the agreement, all funds, objects of art, and property of any kind held or received on behalf of the City or the Museum shall remain with the Museum and shall be the property of the City. Any funds, objects of art, or property held in the name of the Corporation as restricted by the donors of such, shall remain at the Museum and applied for Museum purposes in the name of the Corporation.

XIV. Effective Date

This Agreement shall be effective as of January 1, 1998, and may from time to time be modified, changed, or amended only as may be mutually agreed in writing between the Corporation acting through its Board of Directors and the City, or their successors.

IN WITNESS WHEREOF the parties have entered into this Agreement on the date written above.

THE CITY OF WICHITA, KANSAS

By _____
Bob Knight, Mayor

ATTEST:

_____
Pat Burnett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

THE WICHITA ART MUSEUM, INC.

By _____
President

ATTEST:

_____

ART MUSEUM AGREEMENT

JAN 6 1998
p.99

AGREEMENT FOR OPERATION AND MANAGEMENT OF WICHITA ART MUSEUM.

Agenda Report No. 98-035.

On November 18, 1997, the City Council approved a new governance structure for the Wichita Art Museum. Effective January 1, 1998, the previous Wichita Art Museum board was abolished and the City became the successor in interest to all power and authority over the Wichita Art Museum. The City is authorized to enter into a contract with a not-for-profit entity for the operation and management of the Wichita Art Museum.

A 501(c)3 tax exempt organization known as the Wichita Art Museum, Inc., has been established with authority to operate and manage the Museum. This entity with a 36 member Board of Trustees is in place and scheduled to begin operation. Formal action on the management agreement is necessary.

A proposed Management Agreement with The Wichita Art Museum, Inc., was provided to the City Council and summarized in the Agenda Report on November 18, 1997. The Council has never taken formal action to approve the agreement and this action is necessary to put the new governance structure in place. Under this agreement the new entity and its Board of Trustees will assume operation and management of the Museum.

Motion --
-- carried

Knight moved that the Agreement be approved and the Mayor be authorized to execute. Motion carried 7 to 0.

7.3 Museum, Art
JAN 6 1998

Agenda Item # 11

City of Wichita
City Council Meeting
April 14, 1998

COPY

Agenda Report # 98-300

TO: Mayor and City Council

SUBJECT: Wichita Art Museum - Supplemental Agreement

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the Agreement

Background: On November 6, 1997, the City Council approved a new governance structure for the Wichita Art Museum. Effective January 1, 1998, the City of Wichita succeeded the Wichita Art Museum Board to the rights, obligations, and control over the Wichita Art Museum. The former Board held several trusts in its name, primarily the Burneta Adair Endowment Trust and the Wichita Art Museum Board Trust (consisting of a number of individual trusts), invested at several local banks. A number of these trusts have restrictions on the use of the principal or income placed by their grantors.

The City of Wichita succeeded to the fiduciary responsibility for the investment, management, and proper use of these trusts. All decisions relating to the trusts now rests with the City Council, and affirmative direction through Council action is necessary for any decisions on use of the trust funds or changes in investment and management. The Council may make the decision, however, to delegate any or all of these decisions to the new board (the Wichita Art Museum, Inc.).

On January 6, 1998, the City Council approved an agreement with the Wichita Art Museum, Inc. (a §501(c)(3) tax exempt corporation) to take over the operation and management of the Art Museum. The ordinance and agreement delegated management control over the works of art to the new Board (decisions on disposition or transfer of title of art works must still be approved by Council). The new board has now also asked to have direct responsibility for the management and use of the trust funds for the continued operation of the Museum.

Analysis: The proposed Supplement Agreement delegates the Wichita Art Museum, Inc., to act on behalf of the City and have general supervision and management of all the existing and future Art Museum trust funds. This board is required to invest and use the funds in accordance with any restrictions and conditions placed by the grantors and in compliance with statutory fiduciary responsibilities. It may amend restrictions placed by only the old WAM Board, however.

The new board will report on the investment and use of the trust funds in its periodic reports to the City Council and through Council review of the Art Museum budget.

Financial Considerations: The Wichita Art Museum, Inc., will be required to continue to separately account for the investment and use of each trust fund.

Legal Considerations: The City Council has the authority to delegate the responsibility for the management and use of Art Museum trust funds. The supplemental agreement was drafted and approved as to form by the Law Department.

Recommendations/Actions: Approve the Agreement and authorize the Mayor to sign.

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

Approved / Accepted By City Council
This APR 14 1998

SUPPLEMENTAL AGREEMENT FOR OPERATION AND MANAGEMENT OF THE WICHITA ART MUSEUM

THIS SUPPLEMENTAL AGREEMENT entered this date, APR 14 1998, by and between THE CITY OF WICHITA, KANSAS, a municipal corporation ("City") and THE WICHITA ART MUSEUM, INC., a not-for-profit corporation duly organized under the laws of the State of Kansas ("Corporation").

WITNESSETH:

WHEREAS the City succeeded to the ownership and control over all property of the Wichita Art Museum Board effective January 1, 1998, including certain funds and trusts established for the Wichita Art Museum;

WHEREAS the City and the Corporation entered into an Agreement for Operation and Management of the Wichita Art Museum dated January 6, 1998 ("Agreement"), by which the City designates the Corporation as its agent for the general supervision and care of the Wichita Art Museum and objects of art belonging to the City or exhibited therein;

WHEREAS the parties desire to supplement the Agreement to delegate the management and use of the trusts to the Corporation on behalf of the City and the Corporation is authorized and willing to undertake the duties and obligations as set forth in this Supplemental Agreement;

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

I. The Agreement is amended and supplemented to provide as follows:

A. As used in the Agreement and this Supplement Agreement the term "Trusts" shall include trusts, accounts, and funds held by the Wichita Art Museum Board on December 31, 1997, and now held by the City for the benefit and use of the Wichita Art Museum. The Trusts shall include, without limitation, the Wichita Art Museum Operating Accounts, the Burneta Adair Endowment Trust, and the Wichita Art Museum Board Trust. The parties acknowledge that some of the said Trusts are current use accounts or funds, some are endowed, and others are restricted as to use by donor or board, which board restrictions can be amended by the Corporation.

B. The Corporation shall act on behalf of City and shall have the general supervision and care over the Trusts now existing and any future trusts and funds established with the City or the Wichita Art Museum for the benefit and use or the Wichita Art Museum, subject to the

Approved / Accepted By City Council
This APR 14 1998

April 13, 1998

SUPPLEMENTAL AGREEMENT FOR OPERATION AND MANAGEMENT OF THE WICHITA ART MUSEUM

THIS SUPPLEMENTAL AGREEMENT entered this date, APR 14 1998, by and between THE CITY OF WICHITA, KANSAS, a municipal corporation ("City") and THE WICHITA ART MUSEUM, INC., a not-for-profit corporation duly organized under the laws of the State of Kansas ("Corporation").

WITNESSETH:

WHEREAS the City succeeded to the ownership and control over all property of the Wichita Art Museum Board effective January 1, 1998, including certain funds and trusts established for the Wichita Art Museum;

WHEREAS the City and the Corporation entered into an Agreement for Operation and Management of the Wichita Art Museum dated January 6, 1998 ("Agreement"), by which the City designates the Corporation as its agent for the general supervision and care of the Wichita Art Museum and objects of art belonging to the City or exhibited therein;

WHEREAS the parties desire to supplement the Agreement to delegate the management and use of the trusts to the Corporation on behalf of the City and the Corporation is authorized and willing to undertake the duties and obligations as set forth in this Supplemental Agreement;

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

I. The Agreement is amended and supplemented to provide as follows:

A. As used in the Agreement and this Supplement Agreement the term "Trusts" shall include trusts, accounts, and funds held by the Wichita Art Museum Board on December 31, 1997, and now held by the City for the benefit and use of the Wichita Art Museum. The Trusts shall include, without limitation, the Wichita Art Museum Operating Accounts, the Burneta Adair Endowment Trust, and the Wichita Art Museum Board Trust. The parties acknowledge that some of the said Trusts are current use accounts or funds, some are endowed, and others are restricted as to use by donor or board, which board restrictions can be amended by the Corporation.

B. The Corporation shall act on behalf of City and shall have the general supervision and care over the Trusts now existing and any future trusts and funds established with the City or the Wichita Art Museum for the benefit and use or the Wichita Art Museum, subject to the

provisions of this Supplement Agreement. Any trusts or funds established directly with the Corporation shall be subject to their terms and under the full control and authority of the Corporation.

C. The Trusts and all funds derived from the investment of trust funds shall used by the Corporation in accordance with all restrictions and conditions on use of principal, interest, or both placed upon the Trusts and in accordance with the Agreement and the budget of the Corporation.

D. The Corporation shall separately account for the investment and use of such Trust funds upon its books and within its annual financial statement compilations and/or financial audit.

E. The Corporation shall insure the Trusts are managed in compliance with statutory trust fiduciary responsibilities including, without limitation, the Uniform Trustees' Powers Act (K.S.A. 58-1201 *et seq.*) and the Trusts for State and Political Subdivision Act (K.S.A. 58-2431 *et seq.*),

F. The parties recognize that the City has and maintains the ultimate fiduciary responsibility for the Trusts to the grantors and the public. The City shall exercise that responsibility by the review of the budget as set forth in Section VII of the Agreement and the receipt of reports on the Wichita Art Museum as set forth in Section VIII of the Agreement.

II. Except to the extent specifically modified by this Supplemental Agreement, the original provisions of the Agreement remain in force and effect.

IN WITNESS WHEREOF the parties have entered into this Supplemental Agreement on the date written above.

THE CITY OF WICHITA, KANSAS

By _____
Bob Knight, Mayor

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

ATTEST:

Pat Burnett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney

THE WICHITA ART MUSEUM, INC.

By _____
R. A. DeVore, President

ATTEST:

_____
W. R. Conway, Jr.

provisions of this Supplement Agreement. Any trusts or funds established directly with the Corporation shall be subject to their terms and under the full control and authority of the Corporation.

C. The Trusts and all funds derived from the investment of trust funds shall used by the Corporation in accordance with all restrictions and conditions on use of principal, interest, or both placed upon the Trusts and in accordance with the Agreement and the budget of the Corporation.

D. The Corporation shall separately account for the investment and use of such Trust funds upon its books and within its annual financial statement compilations and/or financial audit.

E. The Corporation shall insure the Trusts are managed in compliance with statutory trust fiduciary responsibilities including, without limitation, the Uniform Trustees' Powers Act (K.S.A. 58-1201 *et seq.*) and the Trusts for State and Political Subdivision Act (K.S.A. 58-2431 *et seq.*),

F. The parties recognize that the City has and maintains the ultimate fiduciary responsibility for the Trusts to the grantors and the public. The City shall exercise that responsibility by the review of the budget as set forth in Section VII of the Agreement and the receipt of reports on the Wichita Art Museum as set forth in Section VIII of the Agreement.

II. Except to the extent specifically modified by this Supplemental Agreement, the original provisions of the Agreement remain in force and effect.

IN WITNESS WHEREOF the parties have entered into this Supplemental Agreement on the date written above.

THE CITY OF WICHITA, KANSAS

By _____
Bob Knight, Mayor

ATTEST:

Pat Burnett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney

THE WICHITA ART MUSEUM, INC.

By _____
R. A. DeVore, President

ATTEST:

_____
W. C. CONEW JR

ART MUSEUM AGREEMENT
APR 14 1998
Chris Cherches
P. 421

WICHITA ART MUSEUM - SUPPLEMENTAL AGREEMENT.

City Manager reviewed the Item.

Agenda Report No. 98-300.

On November 6, 1997, the City Council approved a new governance structure for the Wichita Art Museum. Effective January 1, 1998, the City of Wichita succeeded the Wichita Art Museum Board to the rights, obligations, and control over the Wichita Art Museum. The former Board held several trusts in its name, primarily the Burneta Adair Endowment Trust and the Wichita Art Museum Board Trust (consisting of a number of individual trusts), invested at several local banks. A number of these trusts have restrictions on the use of the principal or income placed by their grantors.

The City of Wichita succeeded to the fiduciary responsibility for the investment, management, and proper use of these trusts. All decisions relating to the trusts now rests with the City Council, and affirmative direction through Council action is necessary for any decisions on use of the trust funds or changes in investment and management. The Council may make the decision, however, to delegate any or all of these decisions to the new board (the Wichita Art Museum, Inc.).

On January 6, 1998, the City Council approved an agreement with the Wichita Art Museum, Inc. (a _501(c)(3) tax exempt corporation) to take over the operation and management of the Art Museum. The ordinance and agreement delegated management control over the works of art to the new Board (decisions on disposition or transfer of title of art works must still be approved by Council). The new board has now also asked to have direct responsibility for the management and use of the trust funds for the continued operation of the Museum.

The Supplement Agreement delegates the Wichita Art Museum, Inc., to act on behalf of the City and have general supervision and management of all the existing and future Art Museum trust funds. This board is required to invest and use the funds in accordance with any restrictions and conditions placed by the grantors and in compliance with statutory fiduciary responsibilities. It may amend restrictions placed by only the old WAM Board, however.

The new board will report on the investment and use of the trust funds in its periodic reports to the City Council and through Council review of the Art Museum budget.

The Wichita Art Museum, Inc., will be required to continue to separately account for the investment and use of each trust fund.

Mayor Knight momentarily absent with Vice Mayor Cole in the Chair.

Motion --
-- carried

Lambke moved that the Agreement be approved and the Mayor be authorized to execute. Motion carried 6 to 0. (Rogers absent)

7.3

Museum, ART

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Board of Appeals of Plumbers and Gas Fitters

INITIATED BY: Department of Law

AGENDA: New Business

Recommendation: Approve the Charter Ordinance.

Background: In 2011, the City of Wichita and Sedgwick County reviewed its code enforcement operations for consolidation opportunities. A design team comprised of internal and external stakeholders was tasked with identifying potential areas of consolidation and making recommendations for the merger of City and County code enforcement departments. The design team's recommendations were presented during a joint City Council and Board of County Commissioners meeting on November 2, 2011. Recommendations included the consolidation of duplicate trade boards. Following this meeting an implementation team of City and County employees began work on implementing the recommendations contained in the design team report.

Analysis: Consolidating the Board of Appeals of Plumbers and Gas Fitters as well as other duplicate code enforcement boards is consistent with the design team's November 2, 2011 recommendation to the governing bodies. Consolidation of the Board of Appeals of Plumbers and Gas Fitters would facilitate consistent plumbing code interpretation and adoption recommendations. The proposed ordinance changes have been presented to the design team and the Board of Appeals of Plumbers and Gas Fitters. Both bodies support the proposed changes.

Financial Considerations: There are no financial considerations associated with the consolidation of the Board of Appeals of Plumbers and Gas Fitters.

Goal Impact: The merger and consolidation of trade boards addresses the Safe and Secure Community and Quality of Life goals by providing consistent plumbing code interpretation and code adoption recommendations.

Legal Considerations: The Charter Ordinance has been approved as to form by the Law Department.

Recommendation/Action: It is recommended the City Council approve the Charter Ordinance and place on first reading.

Attachments: Charter Ordinance
Delineated Ordinance

PUBLISHED TWICE IN THE WICHITA EAGLE ON OCTOBER 26, 2012 AND NOVEMBER 2, 2012.

CHARTER ORDINANCE NO. 219

A CHARTER ORDINANCE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE MEMBERSHIP OF THE BOARD OF APPEALS OF PLUMBERS AND GAS FITTERS, AMENDING SECTION 1 OF CHARTER ORDINANCE No. 197 AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 1 of Charter Ordinance No. 197, amending Section 2 of Charter Ordinance 60 of the City of Wichita, is hereby amended to read as follows:

"There is hereby authorized a Board of Appeals of Plumbers and Gas Fitters, which shall consist of seven members and the Director of the Metropolitan Area Building and Construction Department or representative who shall serve as secretary and the Director of Public Works and Utilities or designee who shall serve in an advisory capacity to said board and perform such services as the board may require. Said board shall consist of the following:

One (1) member, who shall hold a master plumber's certificate (appointed by County);
One (1) member, who shall hold a minimum journeyman plumber's certificate (appointed by County);
One (1) member, who shall hold a mechanical engineer's license (appointed by County);
One (1) member, who is a licensed mechanical contractor (appointed by City);
One (1) member, who shall hold a master lawn sprinkler installer certificate (appointed by City);
One (1) member, who is a licensed plumbing contractor (appointed by City); and
One (1) member from the public-at-large, a joint appointment by the Mayor for the City of Wichita and the Chair of the County Commission for Sedgwick County.

SECTION 2. The original of Section 1 of Charter Ordinance No. 197 is hereby repealed.

SECTION 3. The Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION 4. This is a charter ordinance and shall take effect sixty-one days after final publication unless a sufficient petition for referendum is filed and a referendum held on the

ordinance as provided in Article 12, Section 5(c)(3) of the Constitution of the State of Kansas, in which case, the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND ADOPTED BY THE GOVERNING BODY, not less than two-thirds of the members-elect voting in favor thereof, this 23rd day of October, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf

PUBLISHED TWICE IN THE _____ ON _____ AND _____, 2012.

CHARTER ORDINANCE NO. _____

DELINEATED

A CHARTER ORDINANCE OF THE CITY OF WICHITA, KANSAS, RELATING TO THE MEMBERSHIP OF THE BOARD OF APPEALS OF PLUMBERS AND GAS FITTERS, AMENDING SECTION 14 OF CHARTER ORDINANCE No. 197 NO. 106 AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 14 of Charter Ordinance No. 197,106 amending Section 2 of Charter Ordinance 60 of the City of Wichita, is hereby amended to read as follows:

"There is hereby authorized a Board of Appeals of Plumbers and Gas Fitters, which shall consist of seven members and the Director superintendent of Central Inspection or the Metropolitan Area Building and Construction Department or Superintendent of Central Inspection's representative who shall serve as secretary and the Environmental Health Director of Public Works and Utilities or his/her designee who shall serve in an advisory capacity to said board and perform such services as the board may require. Said board shall consist of the following:

One (1) member, who shall hold a master plumber's certificate (appointed by County);
One (1) member, who shall hold a minimum journeyman plumber's certificate (appointed by County);
One (1) member, who shall hold a mechanical engineer's license (appointed by County);
One (1) member, who is a licensed mechanical contractor (appointed by City);
One (1) member, who shall hold a master lawn sprinkler installer certificate (appointed by City);
One (1) member, who is a licensed plumbing contractor (appointed by City); and
One (1) member from the public-at-large, a joint appointment by . The Mayor, with the Mayor for the City of Wichita and Council, shall appoint members to the Chair of the County Commission for Sedgwick County board for such terms as shall be established by ordinance."

SECTION 2. The original of Section 1 ~~4~~ of Charter Ordinance No. 197 ~~106~~ is hereby repealed.

SECTION 3. The Ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

SECTION 4. This is a charter ordinance and shall take effect sixty-one days after final publication unless a sufficient petition for referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5(c)(3) of the Constitution of the State of Kansas, in which case, the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND ADOPTED BY THE GOVERNING BODY, not less than two-thirds of the members-elect voting in favor thereof, this _____ ~~5th~~ day of _____, 2012 ~~August, 2003~~.

_____

Carl Brewer ~~Carlos Mayans~~, Mayor

ATTEST:

_____

Karen Sublett ~~Pat Graves~~, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf

City of Wichita
City Council Meeting
August 14, 2012

TO: Mayor and City Council

SUBJECT: Joint Policy Resolution to establish a single Board of Zoning Appeals (BZA) for Wichita and Sedgwick County

INITIATED BY: Department of Law

AGENDA: Consent

Recommendation: Approve the joint policy resolution and place the ordinance on first reading.

Background: In 2011, the City of Wichita and Sedgwick County reviewed the feasibility of establishing a Metropolitan Community Development Services Organization. The objective of the review was to evaluate if there were efficiencies to be gained by combining the functions, programs and services of the City of Wichita and Sedgwick County's community development departments which would result in cost savings or enhanced service to citizens. The Board of Zoning Appeals is one area which is included in the review for combining services.

Analysis: Approval of the resolution establishes the policy framework for the consolidation of the Board of Zoning Appeals into the Metropolitan Area Planning Commission. The resolution also demonstrates City Council's continued support for combining similar services between the City and County. The Board County Commissioners will consider approving the resolution during its October 17, 2012 meeting.

Financial Considerations: None.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal.

Legal Considerations: The joint policy resolution and ordinance have been approved as to form by the Law Department.

Recommendation/Action: It is recommended the City Council approve the Joint Policy Resolution, place the ordinance on first reading and authorize the necessary signatures.

Attachments: Joint Policy Resolution, Ordinance, Delineated Ordinance

First Published in The Wichita Eagle on October 26, 2012

CLEAN

ORDINANCE NO. 49-385

AN ORDINANCE AMENDING SECTION 2.12.560 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE BOARD OF ZONING APPEALS AND REPEALING THE ORIGINALS OF SAID SECTION.

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

Section 1. Section 2.12.560 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Section 2.12.560. – Board of Zoning Appeals – Formation.

A board of zoning appeals is created. "Board" when used in Sections 2.12.560 through 2.12.610 of the city code, means the board of zoning appeals. The board shall consist of the duly appointed members of the Metropolitan Area Planning Committee ("MAPC") as defined by the Wichita-Sedgwick County Zoning Code. The terms of office and filling of vacancies shall be done in accordance with the established rules of the MAPC as hereto in effect and as may be amended by the MAPC. The members of the board shall elect from among their number a chairperson to serve for a term of one year, and shall appoint a secretary who may be an officer or employee of the city. The city council of the city shall have the power to remove any member of the board appointed by the city council to MAPC for cause. No member shall receive any compensation for such member's services.

SECTION 2. The original of Section 2.12.560 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon 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 October, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

First Published in The Wichita Eagle on _____

DELINEATED DATE

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 2.12.560 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE BOARD OF ZONING APPEALS AND REPEALING THE ORIGINALS OF SAID SECTION.

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

Section 1. Section 2.12.560 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Section 2.12.560. – Board of Zoning Appeals – Formation.

A board of zoning appeals is created. "Board" when used in Sections 2.12.560 through 2.12.610 of the city code, means the board of zoning appeals. The board shall consist of the duly appointed members of the Metropolitan Area Planning Committee ("MAPC") as defined by the Wichita-Sedgwick County Zoning Code. The terms of office and filling of vacancies shall be done in accordance with the established rules of the MAPC as hereto in effect and as may be amended by the MAPC. The members of the board shall elect from among their number a chairperson to serve for a term of one year, and shall appoint a secretary who may be an officer or employee of the city. The city council of the city shall have the power to remove any member of the board appointed by the city council to MAPC for cause. ~~after a public hearing.~~ No member shall receive any compensation for such member's services.

SECTION 2. The original of Section 2.12.560 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

CITY OF WICHITA
ORDINANCE NO. 49-385

SEDGWICK COUNTY
RESOLUTION NO. _____

Date Adopted by City of Wichita : - - 2012
Date Adopted by Sedgwick County : - - 2012

Date Published by City of Wichita: - - 2012
Date Published by Sedgwick County: - - 2012

A JOINT CITY ORDINANCE AND COUNTY RESOLUTION ESTABLISHING AND DESIGNATING A SINGLE BOARD OF ZONING APPEALS FOR THE CITY OF WICHITA AND SEDGWICK COUNTY, KANSAS WITH THE MEMBERS THEREOF TO BE FILLED AND TO SERVE BY THE APPOINTED MEMBERS, AS MAY CHANGE FROM TIME TO TIME, OF THE EXISTING METROPOLITAN AREA PLANNING COMMISSION, AND TO HEAR AND DECIDE ZONING VARIANCES AND APPEALS FOR EACH AND BOTH JURISDICTIONS PURSUANT TO KANSAS STATUTE AND THE ADOPTED WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, AND TO BE KNOWN AS THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS; AND ABOLISHING THE EXISTING BOARDS OF ZONING APPEALS FOR EACH INDIVIDUAL JURISDICTION BY DECEMBER 31, 2012.

WHEREAS, the Governing Body of the City of Wichita and the Board of County Commissioners of Sedgwick County, Kansas are authorized by K.S.A. 12-741 *et. seq.*, to officially adopt, incorporate, and promulgate by ordinance and resolution planning and zoning laws and regulations for the protection of the public health, safety and welfare; and

WHEREAS, the Governing Body of the City of Wichita and the Board of County Commissioners of Sedgwick County, Kansas are authorized by K.S.A. 12-759 *et. seq.*, to officially create boards of zoning appeals by the adoption of the appropriate ordinance or resolution; and with each jurisdiction having exercised such authority over several decades; and

WHEREAS, the City Council of the City of Wichita, as the Governing Body of the City of Wichita, and the Board of County Commissioners of Sedgwick County, as the Governing Body of Sedgwick County, Kansas, desire to establish a single board of zoning appeals; to hear and decide zoning variances and appeals for each and both jurisdictions of the City of Wichita and Sedgwick County, Kansas, with the members thereof to be filled and serve by the appointed members, as may change from time to time, of the existing Metropolitan Area Planning Commission, as appointed by each Governing Body as authorized by Kansas law; and to be officially known as the Wichita-Sedgwick County Board of Zoning Appeals; and in order to better serve the public and to make more efficient and effective the customer service provided to all of their citizens and stakeholders; and

WHEREAS, the purpose of the Wichita-Sedgwick County Board of Zoning Appeals shall be to hear and decide variances and appeals and other matters as authorized by Kansas statute, as amended, and the adopted Wichita-Sedgwick County Unified Zoning Code, as amended, with the creation and designation of the board to be considered the individual enactment of the City of Wichita and of Sedgwick County, Kansas, as applicable; and

WHEREAS, the existing boards of zoning appeals for the City of Wichita and Sedgwick County, Kansas shall wrap-up and conclude all existing matters before it and issue any pending decisions by the 28th day of December, 2012, with the existing boards to be henceforth abolished by the 31st day of December, 2012, at 12:00 a.m., C.S.T.; and

WHEREAS, K.S.A. 12-759(g) authorizes a planning commission to be designated as a board of zoning appeals under Kansas law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS AND ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS THAT:

SECTION 1. CREATION OF THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS AS AUTHORIZED BY THE CITY OF WICHITA.

There is hereby created the Wichita-Sedgwick County Board of Zoning Appeals, which shall consist of the current members, as may change from time to time, of the Metropolitan Area Planning Commission, including but not limited to, those members appointed by the Governing Body of the City of Wichita. The Wichita-Sedgwick County Board of Zoning Appeals shall begin operations effective the 1st day of January, 2013, at 12:01a.m. C.S.T.

Any application for variance filed or appeal taken after 4:01 p.m. C.S.T. on the 12th day of November, 2012, shall be heard and determined by the newly created Wichita-Sedgwick County Board of Zoning Appeals for the jurisdiction of` the City of Wichita and processed and determined in accordance with the then current Wichita-Sedgwick County Unified Zoning Code.

SECTION 2. AUTHORITY OF THE BOARD OF ZONING APPEALS FOR THE CITY OF WICHITA.

The newly created Wichita-Sedgwick County Board of Zoning Appeals shall hear and decide all variances and appeals and other matters as authorized by Kansas statute, as amended, and the adopted by the Wichita-Sedgwick County Unified Zoning Code, as amended, for all matters within the confines of the incorporated city limits of the City of Wichita, and to perform all such matters as authorized by all previous duly adopted ordinances that are not inconsistent with this joint ordinance-resolution.

SECTION 3. OPERATION OF THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS.

The newly created Wichita-Sedgwick County Board of Zoning Appeals shall hold regular meetings, shall keep minutes of its proceedings, and carry out all legal responsibilities required by K.S.A. 12-759 *et. seq.,* as amended, and the adopted Wichita-Sedgwick County Unified Zoning Code, as amended. The Board may adopt bylaws consistent with such statute and code.

SECTION 4. INTERIM OPERATION.

Any application for variance filed or appeal taken on or before 4:00 p.m. C.S.T., on the 12th day of November, 2012, shall be heard and determined by the existing Board of Zoning Appeals for the City of Wichita and processed and determined in accordance with the then current Wichita-Sedgwick County Unified Zoning Code. In no event shall the Board operate after the 31st day of December, 2012, at 12:00 a.m., C.S.T.

SECTION 5. AMENDMENT OF CITY OF WICHITA ORDINANCE.

The City of Wichita is hereby amending Municipal Ordinance 42-816 Sec. 1 (Section 2.12.560) and repealing the original of said Ordinance to designate the members of the Metropolitan Area Planning Commission to serve as the members of the joint Board of Zoning Appeals as specified herein.

SECTION 6. CREATION OF THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS AS AUTHORIZED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS.

There is hereby created the Wichita-Sedgwick County Board of Zoning Appeals for Sedgwick County, Kansas, which shall consist of the current members, as may change from time to time, of the Metropolitan Area Planning Commission, including but not limited to, those members appointed by the Board of County Commissioners of Sedgwick County. The Wichita-Sedgwick County Board of Zoning Appeals shall begin operations effective the 1st day of January, 2013, at 12:01a.m. C.S.T.

Any application for variance filed or appeal taken after 4:01 p.m. C.S.T., on the 5th day of November, 2012, shall be heard and determined by the newly created Wichita-Sedgwick County Board of Zoning Appeals for the defined confines of unincorporated Sedgwick County, Kansas and processed and determined in accordance with the then current Wichita-Sedgwick County Unified Zoning Code.

SECTION 7. AUTHORITY OF THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS FOR SEDGWICK COUNTY, KANSAS.

The newly created Wichita-Sedgwick County Board of Zoning Appeals for Sedgwick County, Kansas shall hear and decide all variances and appeals as authorized by Kansas statute, as amended, and the adopted Wichita-Sedgwick County Unified Zoning Code, as amended, for all matters within the defined confines of unincorporated Sedgwick County, and to perform all such

matters as authorized by all previous duly adopted resolutions that are not inconsistent with this joint ordinance-resolution.

SECTION 8. OPERATION OF THE WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS FOR SEDGWICK COUNTY, KANSAS.

The newly created Wichita-Sedgwick County Board of Zoning Appeals for Sedgwick County, Kansas shall hold regular meetings, shall keep minutes of its proceedings, and carry out all legal responsibilities required by K.S.A. 12-759 *et. seq.*, as amended, and the adopted Wichita-Sedgwick County Unified Zoning Code, as amended. The Board may adopt bylaws consistent with such statute and code.

SECTION 9. INTERIM OPERATION.

Any application for variance filed or appeal taken on or before 4:00 p.m. CST on the 5th day of November, 2012, shall be heard and determined by the existing Board of Zoning Appeals for Sedgwick County, Kansas and processed and determined in accordance with the then current Wichita-Sedgwick County Unified Zoning Code. In no event shall the Board operate after December 31, 2012, at 12:00 a.m., C.S.T.

SECTION 10. REPEAL OF RESOLUTION.

The Board of County Commissioners for Sedgwick County hereby repeals Resolution 159-1987, effective December 31, 2012 at 12:00 a.m. C.S.T.

SECTION 11. SEVERABILITY.

If any provision or section of this joint ordinance-resolution is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality shall not affect any other provision of this joint ordinance-resolution. This joint ordinance-resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 12. EFFECT.

This joint ordinance-resolution shall take effect and be in force from and after its adoption and publication once in the official County and City newspaper.

Commissioners present and voting were:

DAVID M. UNRUH	_____
TIM R. NORTON	_____
KARL PETERJOHN	_____
RICHARD RANZAU	_____
JAMES B. SKELTON	_____

Dated this _____ day of _____, 2012.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

_____
KELLY B. ARNOLD, County Clerk

_____
TIM R. NORTON, Chairman
Commissioner, Second District

_____
JAMES B. SKELTON, Chair Pro Tem
Commissioner, Fifth District

APPROVED AS TO FORM:

_____
DAVID M. UNRUH
Commissioner, First District

_____
BILL H. RAYMOND
Assistant County Counselor

_____
KARL PETERJOHN
Commissioner, Third District

_____
RICHARD RANZAU
Commissioner, Fourth District

PASSED by the governing body of the CITY OF WICHITA, KANSAS, this October 23rd day of October, 2012.

_____
CARL BREWER, Mayor

ATTEST:

_____
KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
Director of Law

Agenda Item No. IV-11

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: HPC2012-00208 –Review of the Proposed Demolition of 1305 North Topeka (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Historic Preservation Board Recommendation: Deny the demolition of 1305 North Topeka.

MAPD Staff Recommendation: Overturn the decision of the Historic Preservation Board (HPB) and approve the demolition based on a finding that there is no feasible and prudent alternative.

Background: The representative of the Lawrence E. and Rosalie M. Smith Revocable Living Trust, owner of the property, and the potential purchaser of the property requested permission to demolish the building and leave the lot as green space. The house, located at 1305 North Topeka, is a non-contributing structure in the Topeka Emporia Historic District, which is listed in the Wichita Register of Historic Places, the Register of Historic Kansas Places and the National Register of Historic Places.

K.S.A. 75-2715-2725 regulates historic preservation processes and procedures in the state of Kansas and is administered through the State Historic Preservation Office (SHPO). The City of Wichita has a programmatic agreement with the SHPO for the Historic Preservation Board (HPB) to review all projects located within 500 feet of state and national register listed properties, in accordance with K.S.A. 75-2715-2725. Projects are evaluated based on the "Standards for Evaluating the Effect of a Project on Environs," published by the State Historic Preservation Office on February 24, 1998.

Analysis: This case was afforded a public hearing at the September 10, 2012, Historic Preservation Board meeting. By a 7-0 vote, the HPB found the demolition of the structure does encroach upon, damage, or destroy the environs of the state and national register listed historic district by altering spatial relationships that characterize the environs (Standard 1). The evaluation standards also recommend that when removal of a structure is necessary, a new structure that is compatible with the environs should be installed. Demolition of structures with no plans for compatible replacement structures should be avoided.

Representatives of the Living Trust are appealing the decision of the HPB. Since the property is located within the Topeka Emporia Historic District, demolition cannot proceed without the City Council finding that there is no "feasible and prudent alternative" to demolition. To support this finding, it is pointed out that this property has a history of code violations that have yet to be resolved; has been vacant for a number of years; and has generated complaints by neighbors who have stated that they have had to mow the yard and secure the building.

It is important to note that the HPB had no choice other than to deny the application as required by K.S.A. 75-2715 -2725, as only the governing body can make a finding of 'no feasible and prudent alternative." The programmatic agreement dictates this process. The HPB members support the MAPD staff recommendation to approve the demolition based on a finding that there is no feasible and prudent alternative.

Financial Consideration: The property owner will pay for demolition. No costs will be incurred by the City.

Goal Impact: Safe and Secure Community.

Legal Consideration: The City Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S. A. 75- 2724 and the City Code Section 2.12.1024.5. In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and must find there is no "feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

Recommendation/Actions: Overturn the decision of the HPB and approve the demolition, based on a consideration of all relevant factors, and determine that there is "no feasible and prudent alternative to the proposal, and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

Attachment: Copy of draft minutes of September 10, 2012 Historic Preservation Board meeting
HPB notification letter
Map with subject property

Wichita-Sedgwick County Metropolitan Area Planning Department

HISTORIC PRESERVATION BOARD

HISTORIC PRESERVATION CASE NUMBER: HPC2012-00208, Topeka Emporia Historic District, non-contributing structure

APPLICANT/AGENT: Lawrence Smith Living Trust
C/O Larry Smith
Address: 314 E. Elm
City/Zip: Wichita, Kansas 67214

REQUEST: demolition of residence

LOCATION: 1305 N. Topeka

BOARD ACTION: At the regularly scheduled meeting of the Historic Preservation Board held September 10 at 2:00 p.m. in the Large Conference Room, 10th Floor, City Hall, the following action was taken by a 7-0 vote:

> Item 8-A: The Historic Preservation Board found the proposed project as reviewed in accordance with K.S.A. 75-2715-2725 does encroach upon, damage, or destroy the environs of the Topeka Emporia Historic District

Your notice of appeal at the Historic Preservation Board meeting was recorded. You will be notified when a City Council date has been set.

If you have any questions, you may contact a Historic Preservation Planner at the Wichita-Sedgwick County Area Planning Department, City Hall, 455 N. Main, 10th Floor, telephone 316-268-4421.

Kathy L Morgan

Date: September 18, 2012

Kathy L. Morgan, Senior Planner
Wichita Historic Preservation Office

WICHITA HISTORIC PRESERVATION MINUTES
10 SEPTEMBER 2012
2:00 P.M.

ITEM NO. 1 ROLL CALL

Meeting started at 2:04 pm.

Members Present: Claire Willenberg
Mike Seiwert
Randy Doerksen
Vicki Churchman
Jim Guy
Rachelle Pulkkila
Jacob Laha

Staff Present: Dale Miller, Current Plans Manager, Planning Department
Carol Gilchrist, Planning Aide
Mike Gable, Office of Central Inspection
Jeff Van Zandt, Assistant City Attorney
Dave Moor, City Archeologist
Staff Absent: Kathy Morgan, Senior Historic Preservation Planner

ITEM NO. 2 ADDITIONS OR ADJUSTMENTS TO THE AGENDA

Addition(s) to Agenda Item No. 9 Miscellaneous Matters
4. Demolition of 3 houses at Murdock and Topeka, owned by QuikTrip Corporation
5. Discuss ADA ramp at North High School

ITEM NO. 3 REVOLVING LOAN FUND UPDATE

Revolving Loan Fund – Residential	Not Available
Revolving Loan Fund – Non-Residential	
Deferred Loan Fund – Residential	Not Available

ITEM NO. 4 CORRESPONDENCE

Guy stated that he and others had received e-mails regarding the property at 1305 N. Topeka.

ITEM NO. 5 APPROVAL OF MINUTES FROM THE 13 AUGUST 2012 MEETING

MOTION #1: Churchman moved to approve the 13 August 2012 minutes; Guy seconded. Motion carried unanimously (7-0).

ITEM NO. 6 OLD BUSINESS

None.

ITEM NO. 7 NEW BUSINESS

The following items were reviewed in accordance with K.S.A. 75-2715-2725, as amended:

A. Roof Repairs:

HPC2012-00181	1814 N Fairview	Re-roof (Residential)	Env: Park Place Fairview H.D.
HPC2012-00183	218 N Pershing	Re-roof (Residential)	Env: Wilson House
HPC2012-00184	120 N Old Manor	Re-roof (Residential)	Env: Ablah House
HPC2012-00185	151 N Pinecrest	Re-roof (Residential)	Env: Ablah House
HPC2012-00186	233 S Edgemoor	Re-roof (Residential)	Env: V.A. Hospital
HPC2012-00187	116 S Volutsia	Re-roof (Residential)	Env: Allen's Market
HPC2012-00188	1222 Coolidge	Re-roof (Residential)	Env: Campbell Castle
HPC2012-00189	1201 N Woodrow	Re-roof (Residential)	Env: Campbell Castle
HPC2012-00190	142 S Green	Re-roof (Residential)	Env: Stopher Apartments
HPC2012-00191	1311 N Wellington	Re-roof (Residential)	Env: Park Place Fairview H.D.

HPC2012-00192	302 S Roosevelt	Re-roof (Residential)	Env: Newbern-Gore House
HPC2012-00193	1449 N Fairview	Re-roof (Residential)	Contributor Park Place Fairview H.D.
HPC2012-00194	140 N Dellrose	Re-roof (Residential)	Env: Fred Wilson House
HPC2012-00195	404 S Edgemoor	Re-roof (commercial)	Env: V.A. Hospital
HPC2012-00197	232 S Glendale	Re-roof (Residential)	Env: V. A. Hospital
HPC2012-00198	1131 N Waco	Re-roof (Residential)	Env: Sternberg House
HPC2012-00200	1741 N Broadway	Re-roof (Commercial)	Env: Edward Michael Kelly House
HPC2012-00201	231 S Parkwood	Re-roof (Residential)	Env: V.A. Hospital
HPC2012-00202	261 S Dellrose	Re-roof (Residential)	Env: Pryor House
HPC2012-00203	1311 S Emporia	Re-roof (Residential)	Env: Engine House # 6
HPC2012-00204	1228 Pearce	Re-roof (Residential)	Env: Bitting H.D.
HPC2012-00205	121 N Old Manor	Re-roof (Residential)	Env: Ablah House
HPC2012-00206	130 S Market	Re-roof (Commercial)	Env: Wheeler Kelly Hagny et al
HPC2012-00209	820 Spaulding	Re-roof (Residential)	Env: Stackman Court Apartments
HPC2012-00210	1310 N Mathewson	Re-roof (Residential)	Env: J.E. Farmer House
HPC2012-00211	1132 N Jackson	Re-roof (Residential)	Env: Sternberg House
HPC2012-00212	1432 N Waco	Re-roof (Commercial)	Env: Park Place Fairview H.D.
HPC2012-00213	1124 Pearce	Re-roof (Residential)	Env: Bitting Historic District
HPC2012-00215	236 N Belmont	Re-roof (Residential)	Env: Van Arsdale House
HPC2012-00218	1043 Woodrow	Re-roof (Residential)	Env: Campbell Castle
HPC2012-00221	101 S Belmont	Re-roof (Residential)	Env: Belmont Arches
HPC2012-00222	2316 N Market	Re-roof (Residential)	Env: Cudahy Packing Plant
HPC2012-00223	905 W 11th	Re-roof (Commercial)	Non-Contributing Bitting H.D.
HPC2012-00224	226 S Ridgewood	Re-roof (Residential)	Env: V.A. Hospital
HPC2012-00225	1920 N Wellington	Re-roof (Residential)	Env: Steinbuchel House, Fairview Apt
HPC2012-00226	404 S Lexington	Re-roof (Residential)	Env: Fred Wilson House, RDW Clapp House
HPC2012-00227	233 N Terrace	Re-roof (Residential)	Env: Campbell Castle
HPC2012-00228	852 Buffum	Re-roof (Residential)	Env: Stackman Court Apartments
HPC2012-00229	235 N Clifton	Re-roof (Residential)	Env: Senator Long House
HPC2012-00232	1218 Pearce	Re-roof (Residential)	Env: Bitting Historic District

B. Signs:

HPC2012-00196	705 N Broadway	New signage with LED	Env: N Market Apartments, 20th Century Club
HPC2012-00231	501 E Central	Sign Face Change	Navarre-Nokomis Apartments

C. Other:

HPC2012-00207	946 Faulkner	Replace vinyl siding	Env: Smyser House
HPC2012-00214	1333 N Broadway	Repair damage to garage	Env: Topeka Emporia Historic District
HPC2012-00216	1147 Coolidge	Replace vinyl siding	Env: Campbell Castle
HPC2012-00217	1126 Coolidge	Replace vinyl siding	Env: Campbell Castle
HPC2012-00220	433 N Rock Island	Build ADA ramp	Env: Keep Klean & International Harvester blg
HPC2012-00230	315 W 17th	Build new garage	Env: Park Place Fairview Historic District

MOTION #2: Doerksen moved to approve the Consent Agenda as reviewed in accordance with K.S.A.75-2715-2725; Guy seconded. Motion carried unanimously (7-0).

ITEM NO. 8 PROJECT REVIEW

A. MAJOR: HPC2012-00208 Contributing Structure, Topeka Emporia Historic District
APPLICANT: Lawrence Smith and Dan & Karen Fitzgerald
FOR: 1305 N Topeka

Applicant requests permission to demolish residential structure.

Karen Fitzgerald spoke about how the property has fallen in disrepair for 30 years.

The board received letters in support of demolition from the neighbors. An e-mail was received from SHPO giving an opposite interpretation than one provided by staff. The CLG programmatic agreement requires that HPB deny the request for demolition and follow the procedure to appeal to City Council.

MOTION #3: Guy moved to adopt the determination of the State Historic Preservation Office and find that HPC2012-00208, as reviewed in accordance with K.S.A. 75-2715-2725, does encroach upon, damage, or destroy the historic integrity of the Topeka Emporia National Register Historic District.; Churchman seconded. Motion carried unanimously (7-0).

Willenberg requested that staff include the comments of the HPB to support the demolition of the structure.

ITEM NO. 9 MISCELLANEOUS MATTERS

1. Update on Sternberg House

Dale Miller stated that Kathy Morgan was working with Katrina from SHPO, and the Board authorized staff to send a letter to Mr. Elliott owner of the Sternberg House at 1035 N. Waco, stating that unless contract documents are executed by October 15, 2012 for the repair of the structure and that Historic Preservation staff be allowed to complete a photographic documentation (interior and exterior) of the structure, the $25,000 Historic Revolving Loan Fund Grant will be officially withdrawn and OCI will be notified to resume housing code violations.

2. Update on 1227 N. Topeka

Jeff Van Zandt said the situation stopped and add update to misc matters at October HPB meeting.

3. Update on Pump House Diner

Jeff Van Zandt stated that the Pump House Diner is “90% there”. Follow-up at October HPB meeting.

4. Demolition of 3 houses at Topeka and Murdock, owned by the QuikTrip Corporation - The properties are located within the environs of the N. Market Apartments H.D. and the N. Topeka Apartments H.D. The buildings are not in line of sight of the listed properties. Structures have no integrity. Mike Wooten with QuikTrip said property would be used for green space and or surface parking or possible expansion in future.737 and 735 N. Topeka and 315 E. Murdock.

MOTION #4: Laha moved to adopt the determination of the State Historic Preservation Office and find that (project number to be determined), as reviewed in accordance with K.S.A. 75-2715-2725, and that the demolition does not encroach upon, damage, or destroy the environs of 700 & 700 N. Market and on Murdock; Salvage windows/sashes, and trim trees on r-o-w. Guy seconded. Motion carried unanimously (7-0).

Official action should not have been taken at this meeting. This was only for discussion and to assign it to a design review committee. The case number for the project is HPC2012-00240. This needs to be corrected at the October 8 HPB meeting.

5. North High School ADA ramp - Kenton Cox, Schaefer Johnson Cox Frey discussed the design of a new ramp at the south entrance to the auditorium at North High School. Willenberg appointed a Design Review Committee (Willenberg, Doerksen, and Seiwert) to make recommendations to Kenton.

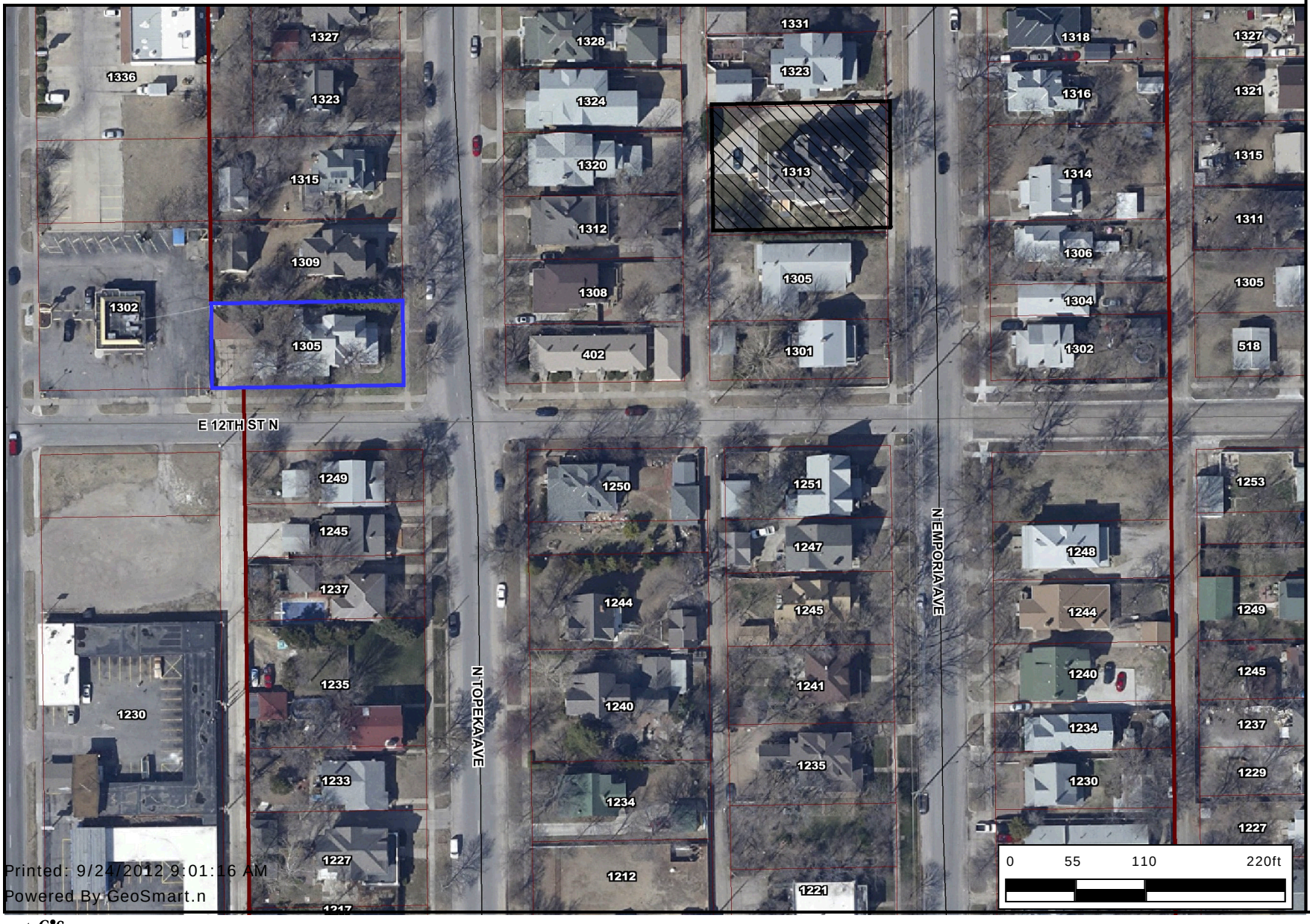
ITEM NO. 10 ADJOURNMENT

MOTION #6: Doerksen moved to adjourn the Wichita Historic Preservation Board meeting; Guy seconded. Motion carried unanimously (7-0).

The meeting adjourned at 3:04 pm.

1305 N Topeka

Topeka Emporia Historic District



Printed: 9/24/2012 9:01:16 AM
Powered By GeoSmart.n

Identified Features
Historic Districts
Old Town
Delano Overlay District
NO
YES
Property Parcels
Roads
State Highway
US Federal Highway
Interstate
KTA
Arterial
Collector
Minor
Ramp
Railroads
Waterways
Streams
Historic Sites
REGIONAL
STATE/NATIONAL
STATE
Parks
Airports
City Limits
Andale
Bel Aire
Bentley
Cheney
Clearwater
Colwich
Derby
Eastborough
Garden Plain

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
October 16, 2012

TO: Mayor and City Council

SUBJECT: A12-03: Unilateral Annexation of Areas Along 135th Street West, Generally Between 13th Street North and 21st Street North (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

Recommendation: Hold the public hearing and approve the unilateral annexation.

Background: On August 14, 2012, the City Council adopted a resolution setting a public hearing for October 16, 2012, at 6:30 p.m. at Fire Station #21 at 2110 North 135th Street West to consider the unilateral annexation of areas along 135th Street West, generally between 13th Street North and 21st Street North. The proposed unilateral annexation is associated with a project to reconstruct 135th Street West from 13th Street North to 21st Street North. Much of the street right-of-way for the project is not in the city limits and needs to be annexed. While much of the unincorporated street-of-way adjoins property that is within the city limits and can be annexed by ordinance, a tenth of a mile stretch of the street right-of-way located a tenth of a mile south of 21st Street North does not adjoin property within the city limits. State law prohibits the City from annexing street right-of-way if the adjoining property is not already within the city limits unless the adjoining property also is annexed in the same proceeding. A map of the area proposed for annexation is attached. The attached service extension plan outlines the City's plan for the extension of municipal services to the proposed annexation area, which is summarized in the Analysis and Financial Consideration sections below.

Analysis:
Land Use and Zoning: The land use of the five parcels in the northern portion of the area proposed for annexation is single-family residential. The land use of the two parcels in the southern portion of the area proposed for annexation is electrical substation. The seven parcels proposed for annexation are zoned "SF-20" Single-Family Residential and will convert to "SF-5" Single-Family Residential if annexed.

Public Services: The City is capable of serving each of the seven parcels proposed to be annexed with water. To receive water service, individual property owners must request to connect to water service. Connection to water service will require the property owner to pay in lieu of assessment, water tap, and plant equity fees, as well as the cost to install private water lines. The City is capable of serving each of the seven parcels proposed to be annexed with sanitary sewer. In order to receive sanitary service, a petition requesting sanitary sewer service must be submitted that is signed by either a majority of the resident owners or the owners of the majority of the land area within the benefit district and property owners must pay assessments and plant equity fees, as well the cost to install private sewer lines

Street System: 135th Street West will be reconstructed from a two-lane asphalt mat roadway with drainage ditches to a three-lane roadway with one through lane in each direction and a center two-way left turn lane. The intersection of 21st Street North and 135th Street West will be signalized and improved to five lanes at all four approaches to the intersection, including left turn lanes. A ten foot wide multi-use path will be constructed on the west side of 135th Street West, the available right-of-way will be landscaped, and street lights will be installed.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Fire Station No. 21 is

located immediately adjacent to the area proposed for annexation at 2110 N. 135th St. W. Upon annexation, police protection will be provided to the area by Patrol West Bureau Beat 199 of the Wichita Police Department, headquartered at 661 N. Elder.

Parks: West Meadows Park is the nearest City of Wichita park facility to the area proposed for annexation. West Meadows Park is located approximately 1 ¼ mile east of the annexation area at 1433 N. Parkridge. West Meadows Park is 1.5 acres in size and is developed with a basketball/multi-use court, tennis courts, children's playground, and picnic table.

School District: The annexation area is part of Unified School District 266 (Maize School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The proposed annexation area falls within the 2030 Wichita Urban Growth Area, as shown in the Comprehensive Plan.

Financial Considerations: After annexation, the City will collect at total of approximately $2,632 ($32.359/$1000 x $81,345 assessed valuation) in property taxes annually from the five residential properties proposed for annexation. The amount of property taxes to be collected from the two electrical substation properties cannot be estimated as utilities are not appraised and assessed for property taxes on an individual property basis. Property owners in the annexation will no longer pay property taxes to Attica Township, County Fire District, and South Central Kansas Library System. The overall property tax rate will change from 115.478 mills to 122.132 mills, a 5.8% increase.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure Efficient Infrastructure, and annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

Legal Considerations: The properties are eligible for annexation under K.S.A. 12-519, *et seq*., by virtue of the land being platted and some part of the land adjoins the city limits. In the absence of an annexation request from a property owner, State law requires the adoption of a resolution by the City Council indicating the City's intent to annex, a description of the property to be annexed, and a notice of the time and place for a public hearing to consider the matter. The City Council approved the resolution on August 14, 2012, and copies of the resolution establishing the public hearing, a map showing the properties included, and a report stating the plans for the extension of municipal services to the proposed annexation area were sent by certified mail on August 17, 2012, to all property owners of record in the proposed annexation area and to required governmental entities and utility services. The Wichita-Sedgwick County Metropolitan Area Planning Commission unanimously found the proposed annexation consistent with the Wichita-Sedgwick County Comprehensive Plan on September 20, 2012. Copies of the resolution and map were published in the official City newspaper on October 5, 2012, as further notification of the scheduled public hearing. A copy of the Service Extension Plan was placed on file in the City Clerk's Office. The attached annexation ordinance has been reviewed by the Law Department and approved as to form.

In conducting the public hearing, State law requires that the City's plan for extending major municipal services be presented and that all persons interested in the annexation be heard. After hearing all comments of the persons interested, the City Council has the option of continuing or closing the public hearing and approving or rejecting the annexation proposal.

Recommendations/Actions: It is recommended that the City Council close the public hearing, approve the unilateral annexation, place the ordinance on first reading, authorize the necessary signatures, and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachments: Map Sheet
Service Extension Plan
Ordinance

OCA150004 BID #37529-009 CID #76383

PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 26, 2012

ORDINANCE NO. 49-387

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A12-03)

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

SECTION 1. The governing body, under the authority of K.S.A. 12-517, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District V:

Tract 1
Lot 1, Block A, St. Marks Sub. Addition to Sedgwick County, Kansas

Tract 2
Lot 1, Block A, Cowskin Sub. Addition to Sedgwick County, Kansas

Tract 3
Lots 3, 5, 7, 9, and 11, Block 1, L R Jones Second Addition to Sedgwick County, Kansas

Right-of-Way
135th Street West, from a point 511.5 feet north of the south line of the Southwest Quarter of Section 12, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the south line of the Southeast Quarter of Section 11, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence north, to a point 1314.73 feet north of the south line of the Southwest Quarter of Section 1, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the south line of the Southeast Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas

21st Street North, from a point 491.03 feet east of the west line of the Southwest Quarter of Section 1 Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the west line of the Northwest Quarter of Section 12, Township 27 South, Range 2 West of the 6th P.M.,

Sedgwick County, Kansas; thence west, to a point 1610.93 feet west of the east line of the Northeast Quarter of Section 11, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the east line of the Southeast Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 23rd October, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

SERVICE EXTENSION PLAN
FOR THE PROPOSED
135TH STREET WEST ANNEXATION

Areas along 135th Street West, generally between 13th Street North and 21st Street North

August 14, 2012

TABLE OF CONTENTS

LEGAL DESCRIPTION FOR THE PROPOSED ANNEXATION AREA 4

INTRODUCTION 4

AREA PROPOSED FOR ANNEXATION 5

LAND USE AND ZONING 6

EXTENSION OF MAJOR MUNICIPAL SERVICES 7

A. PUBLIC STREETS 7

B. WATER 7

C. SANITARY SEWER 9

D. FLOOD PROTECTION AND STORMWATER MANAGEMENT 12

E. FIRE PROTECTION 13

F. POLICE PROTECTION 14

G. PARKS 15

AD VALOREM TAX REVENUES 16

TIMETABLE FOR SERVICES 19

LIST OF MAPS

MAP NO. 1: ANNEXATION AREA 5

MAP NO. 2: EXISTING LAND USE PATTERN 6

MAP NO. 3: EXISTING ZONING PATTERN 7

MAP NO. 4: EXISTING WATER SYSTEM 8

MAP NO. 5: EXISTING SEWER SYSTEM 9

MAP NO. 6: SANITARY SEWER BENEFIT DISTRICT 10

MAP NO. 7: FLOODPLAIN BOUNDARY 12

MAP NO. 8: EXISTING STORM WATER SEWER SYSTEM 13

MAP NO. 9: FIRE PROTECTION 14

MAP NO. 10: POLICE PROTECTION 15

MAP NO. 11: PROXIMITY TO PARKS 16

LIST OF TABLES

TABLE 1: ESTIMATED WATER CONNECTION FEES 8

TABLE 2: ESTIMATED ASSESSMENTS FOR SANITARY SEWER 11

TABLE 3: TOTAL APPRAISED AND ASSESSED VALUE 16

TABLE 4: TAX COMPARISON FOR 1960 N. 135TH ST. W. 17

TABLE 5: TAX COMPARISON FOR 2010 N. 135TH ST. W. 17

TABLE 6: TAX COMPARISON FOR 2026 N. 135TH ST. W. 18

TABLE 7: TAX COMPARISON FOR 2042 N. 135TH ST. W. 18

TABLE 8: TAX COMPARISON FOR 2060 N. 135TH ST. W. 18

TABLE 9: TIMING AND FINANCING OF SERVICES 19

LEGAL DESCRIPTION FOR THE PROPOSED 135TH STREET WEST ANNEXATION AREA

Lot 1, Block A, St. Marks Sub. Addition to Sedgwick County, Kansas.

AND ALSO:

Lot 1, Block A, Cowskin Sub. Addition to Sedgwick County, Kansas.

AND ALSO:

Lots 3, 5, 7, 9, and 11, Block 1, L R Jones Second Addition to Sedgwick County, Kansas.

AND ALSO:

135th Street West, from a point 511.5 feet north of the south line of the Southwest Quarter of Section 12, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the south line of the Southeast Quarter of Section 11, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence north, to a point 1314.73 feet north of the south line of the Southwest Quarter of Section 1, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the south line of the Southeast Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

AND ALSO:

21st Street North, from a point 491.03 feet east of the west line of the Southwest Quarter of Section 1 Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the west line of the Northwest Quarter of Section 12, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence west, to a point 1610.93 feet west of the east line of the Northeast Quarter of Section 11, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas and the east line of the Southeast Quarter of Section 2, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas.

INTRODUCTION

The City of Wichita is proposing to annex certain eligible parcels of land by means of the unilateral annexation method as a result of the recently-initiated capital improvement project to reconstruct 135th Street West. Currently, most of the street right-of-way within the project area is not within the Wichita city limits. While much of the unincorporated street-of-way adjoins property that is within the Wichita city limits, Kansas Statutes Annotated (K.S.A.) 12-520(7)(f) prohibits a city from annexing street right-of-way unless the adjoining property is already within the city limits or if the adjoining property is annexed in the same proceeding through which the street right-of-way is annexed. Therefore, in addition to street right-of-way for 135th Street West and 21st Street North, the City of Wichita is proposing to annex properties at 1960, 2010, 2026, 2042, and 2060 North 135th Street West along with the street right-of-way in order to comply with the requirements of K.S.A. 12-520(7)(f). Additionally,

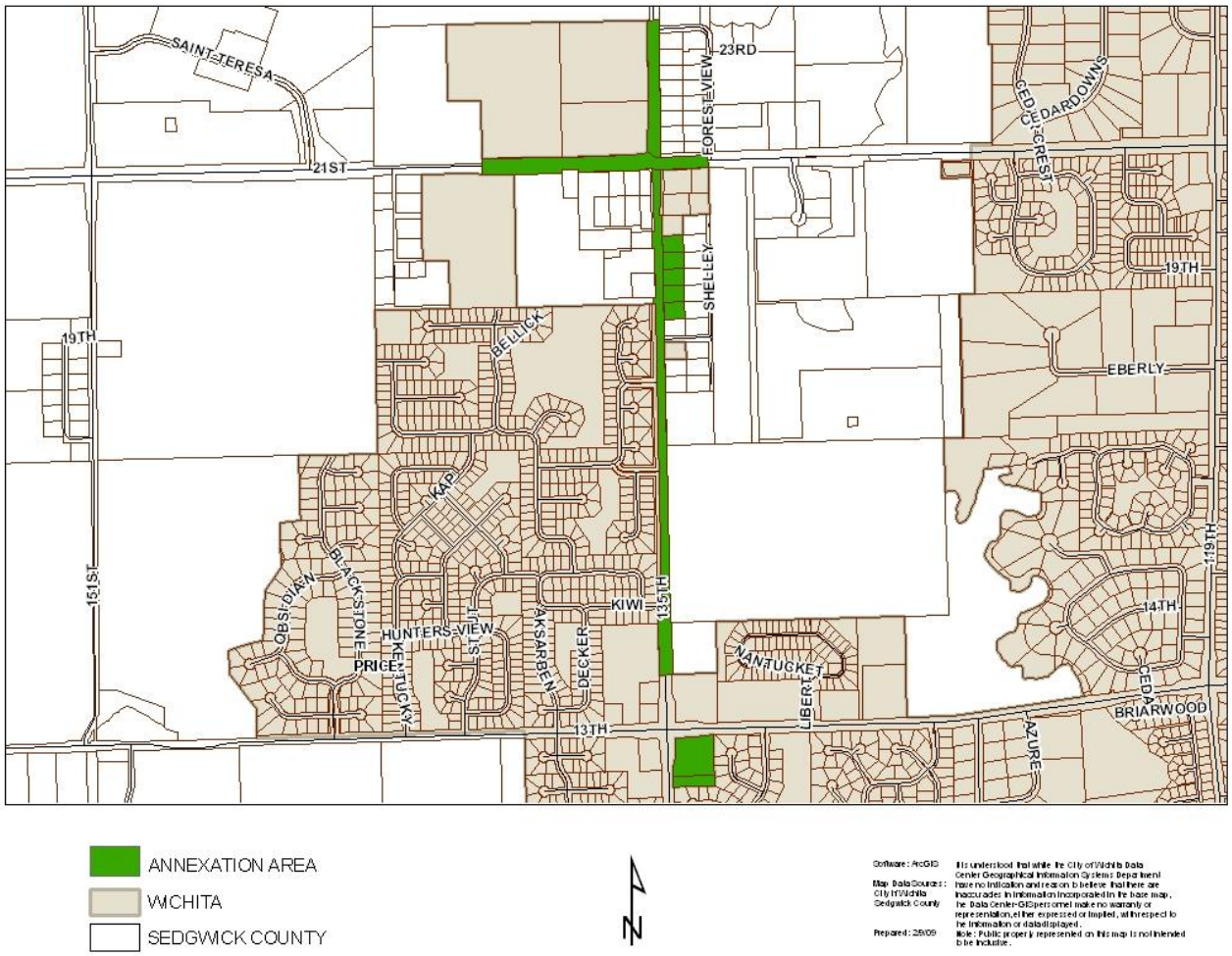
the City of Wichita is proposing to annex two electrical substations in the area that are entirely surrounded by the Wichita city limits.

State law requires a Service Extension Plan whenever a city pursues a unilateral annexation. This report describes the prospective extension of city services to properties within the 135th Street West Annexation area pursuant to the requirement of state law found in Kansas Statutes Annotated (K.S.A.) 12-520 et seq.

AREA PROPOSED FOR ANNEXATION

The properties proposed for annexation are in an area generally located along 135th Street West, generally between 13th Street North and 21st Street North. The annexation area contains approximately 21.16 acres of land and public street right-of-way combined, with the seven parcels of land comprising approximately 7.37 acres of the annexation area. The map below illustrates the area proposed for annexation

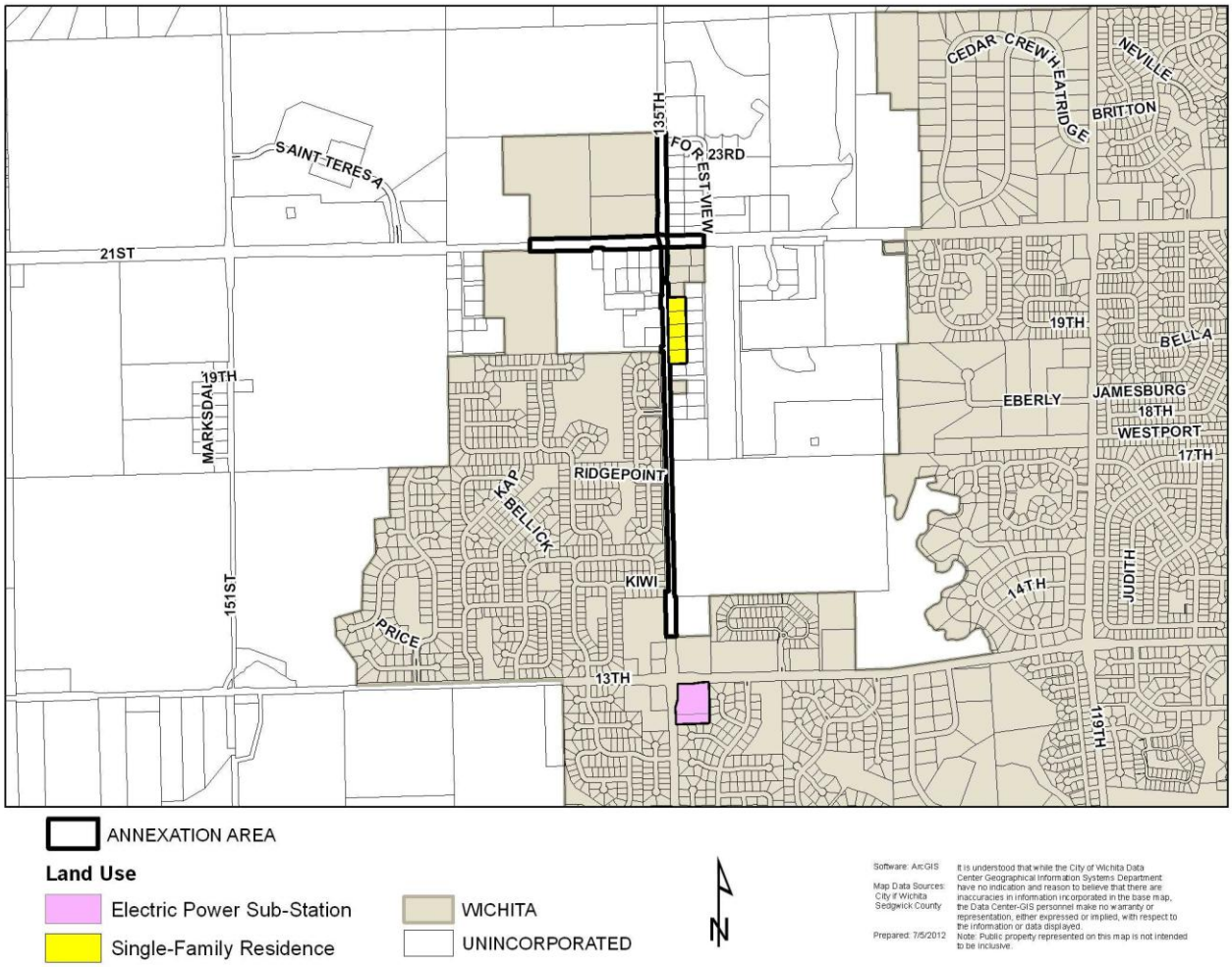
MAP NO. 1: ANNEXATION AREA



LAND USE AND ZONING

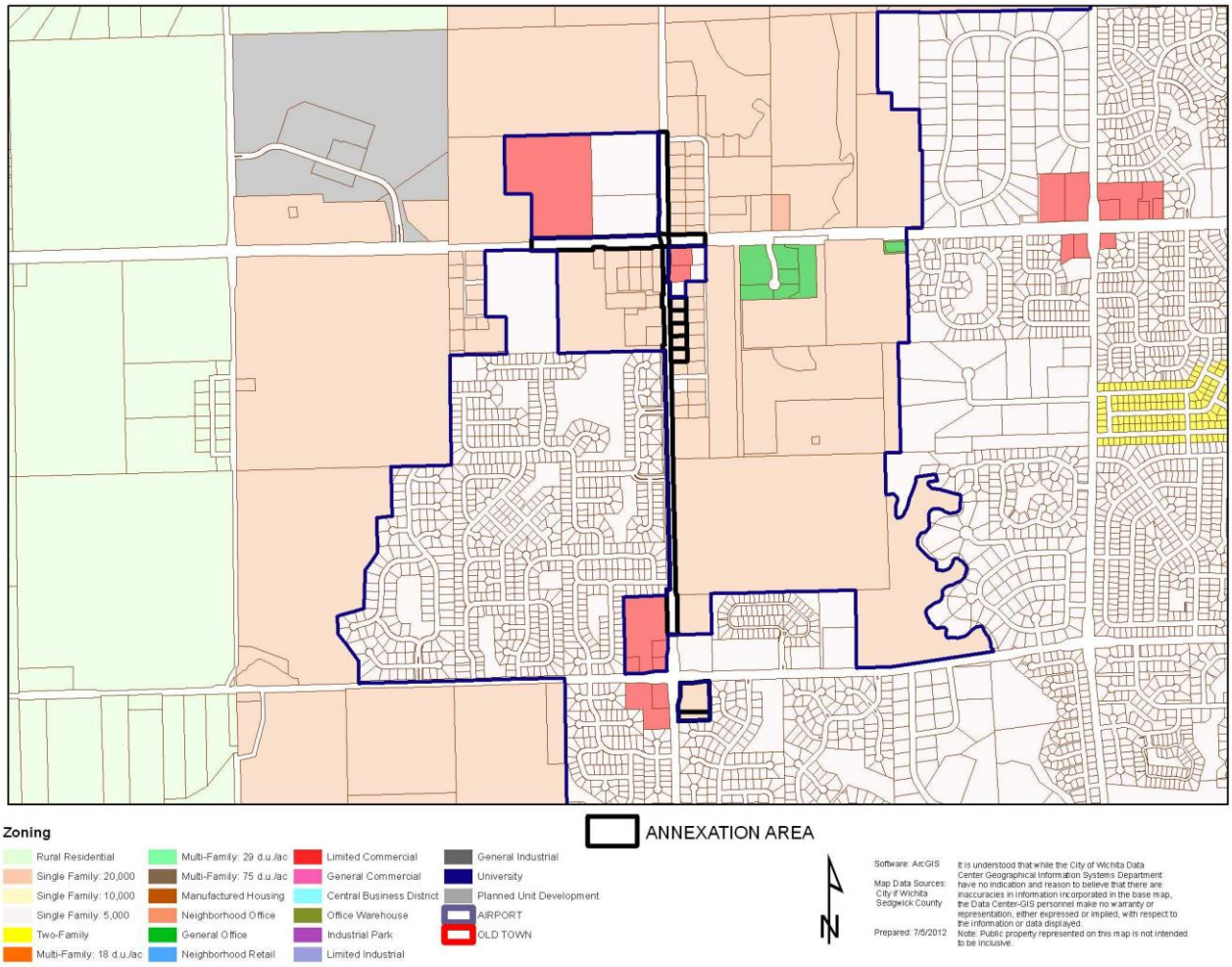
The land use of the five parcels in the northern portion of the area proposed for annexation is single-family residential. The land use of the two parcels in the southern portion of the area proposed for annexation is electrical substation. The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The proposed annexation area falls within the 2030 Wichita Urban Growth Area, as shown in the Comprehensive Plan. The map below illustrates the existing land use pattern.

MAP NO. 2: EXISTING LAND USE PATTERN



The seven parcels proposed for annexation are zoned" SF-20" Single-Family Residential and will convert to "SF-5" Single-Family Residential if annexed. The map below illustrates the existing zoning pattern of the area.

MAP NO. 3: EXISTING ZONING PATTERN



EXTENSION OF MAJOR MUNICIPAL SERVICES

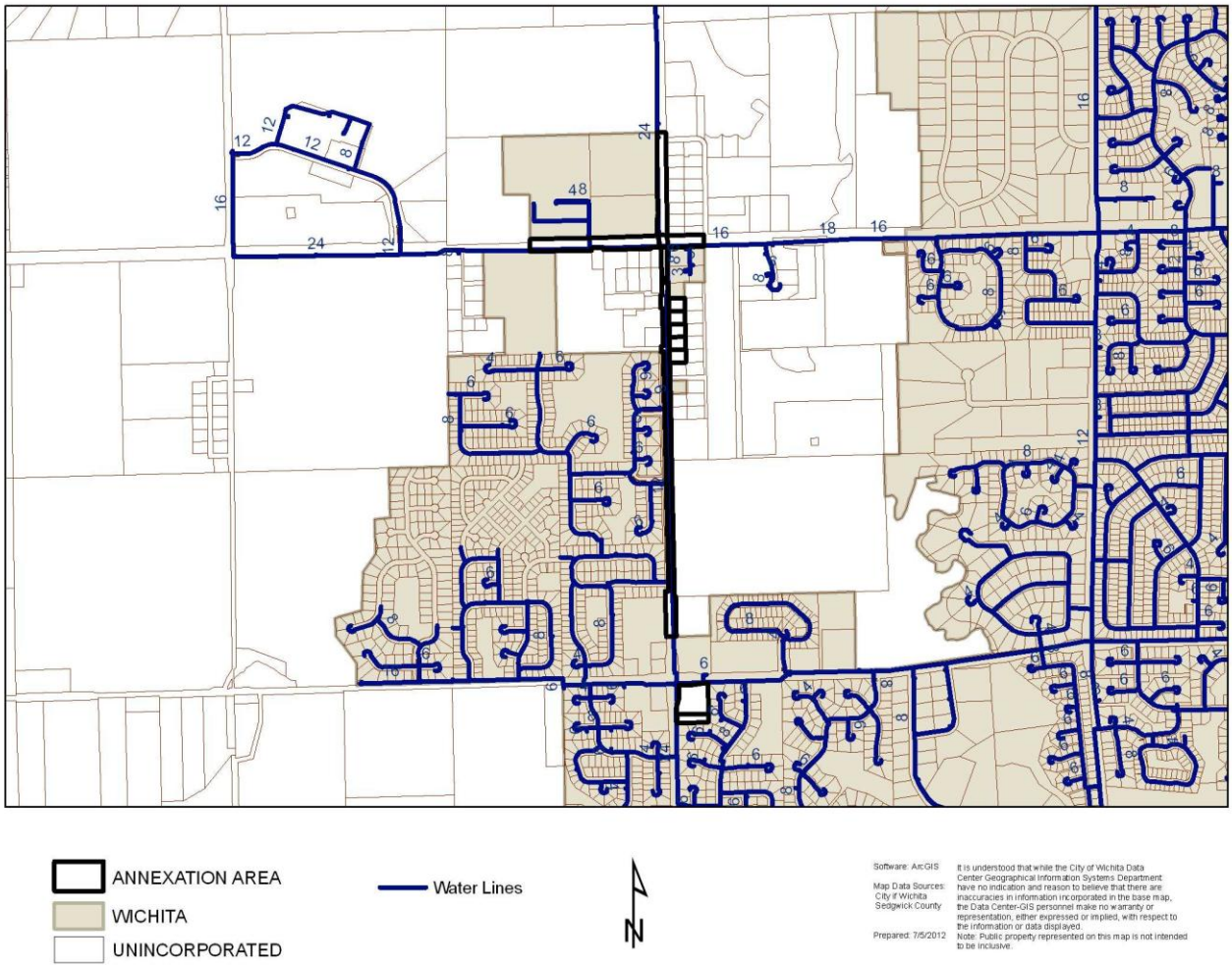
A. PUBLIC STREETS

135th Street West will be reconstructed from a two-lane asphalt mat roadway with drainage ditches to a three-lane roadway with one through lane in each direction and a center two-way left turn lane. The intersection of 21st Street North and 135th Street West will be signalized and improved to five lanes at all four approaches to the intersection, including left turn lanes. A ten foot wide multi-use path will be constructed on the west side of 135th Street West, and the available right-of-way will be landscaped. Street lights will be installed along 135th Street West from 13th Street North to 21st Street North. The estimated cost of the project is $6.1 million, which will be paid for by the City at large. Construction is estimated to be completed in 2013.

B. WATER

None of the seven parcels within the annexation area are currently served with water by the City of Wichita. The map below illustrates the existing water system in the area.

MAP NO. 4: EXISTING WATER SYSTEM



The City of Wichita is capable of serving each of the seven parcels proposed to be annexed with water. To receive water service from the City of Wichita, individual property owners must contact the Water System Planning Office at (316) 268-4334 and request to connect to water service. Connection to water service will require the property owner to pay in lieu of assessment, water tap, and plant equity fees, as well as the cost to install private water lines. The estimated water connection fees for each of the seven parcels proposed to be annexed is shown in Table 1 below. The fees are subject to change.

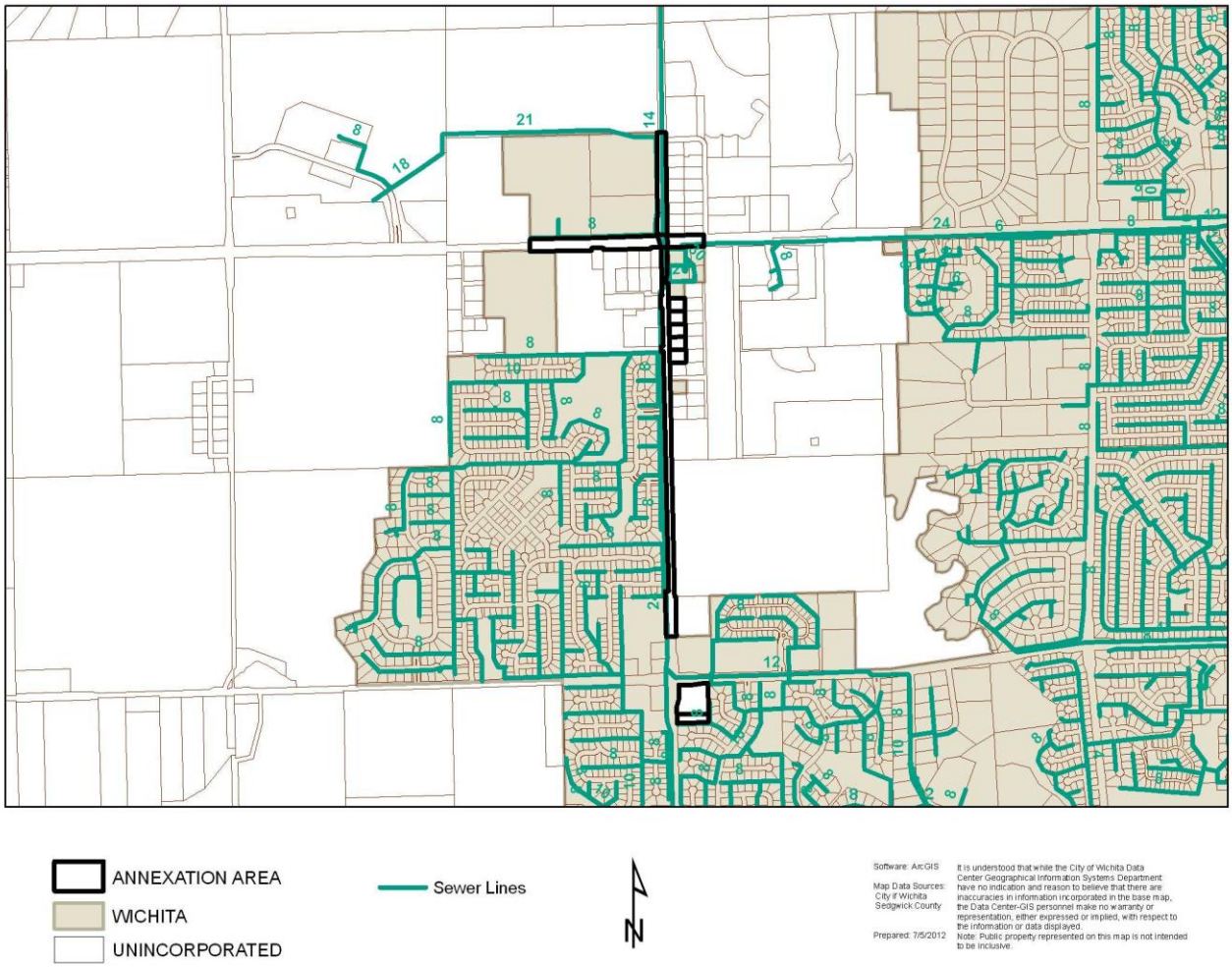
TABLE 1: ESTIMATED WATER CONNECTION FEES

Property	Current Estimated Water Connection Fees
Westar Substation	$11,593
Sedgwick County Electric Cooperative Substation	$4,993
1960 North 135th Street West	$4,761
2010 North 135th Street West	$4,738
2026 North 135th Street West	$4,759
2042 North 135th Street West	$4,744
2060 North 135th Street West	$4,754

C. SANITARY SEWER

None of the seven parcels within the annexation area are currently served with sanitary sewer by the City of Wichita. The map below illustrates the existing sewer system in the area.

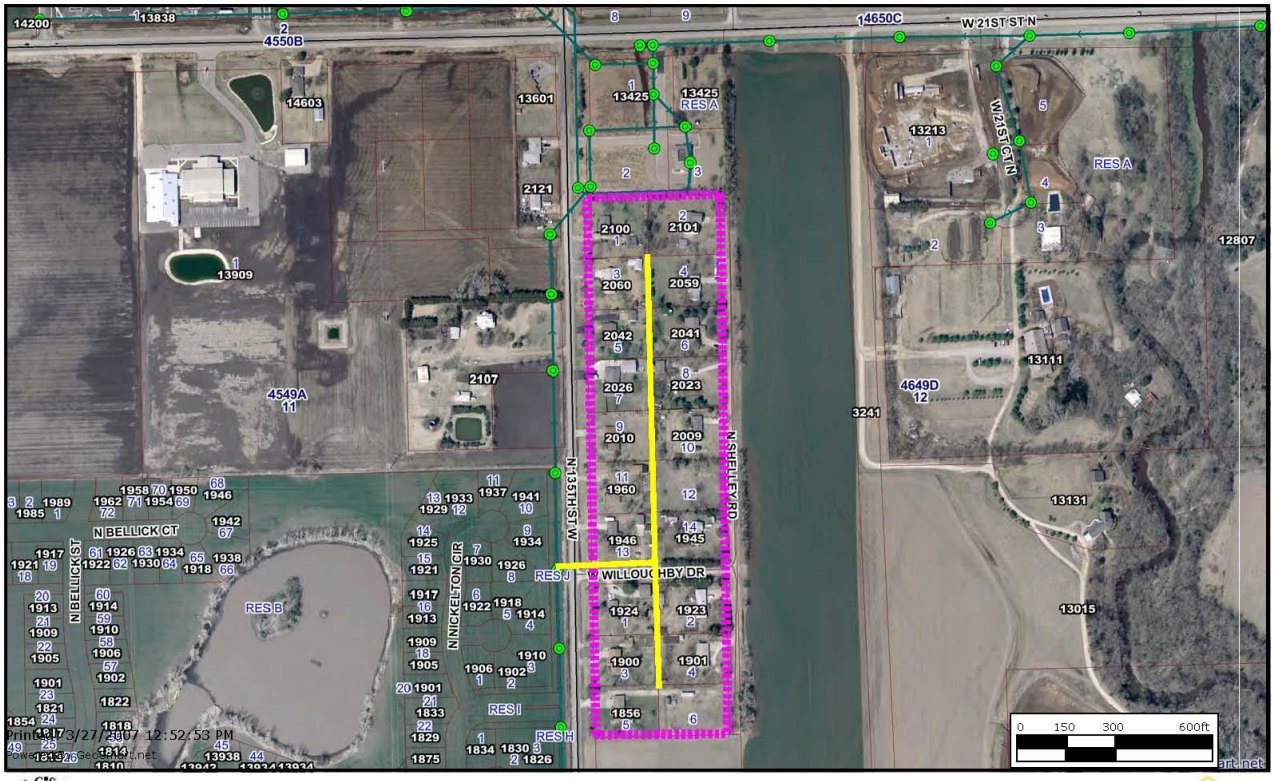
MAP NO. 5: EXISTING SEWER SYSTEM



The City of Wichita is capable of serving each of the seven parcels proposed to be annexed with sanitary sewer. In order for the northern five parcels proposed for annexation to receive sanitary service from the City of Wichita, a petition requesting sanitary sewer service must be submitted to the City of Wichita that is signed by either a majority of the resident owners or the owners of the majority of the land area within the benefit district identified in Map No. 6: Sanitary Sewer Service Benefit District on page 10. If a valid petition is received, property owners will be required to pay assessments for the extension of sanitary sewer service, a plant equity fee, and the cost to install private sewer lines. The estimated assessments for the extension of sanitary sewer service are shown in Table 2: Estimated Assessments for Sanitary Sewer on page 11. The plant equity fee is estimated to be $1,350. The assessments and fees are subject to change. Sanitary sewer service also can be extended to the two electrical substation parcels if a valid petition is received by the City of Wichita. The total of

assessments and fees for extension of sanitary sewer service to the two electrical substation parcels is estimated to be approximately $20,000 to be split between the two parcels and is subject to change.

MAP NO. 6: SANITARY SEWER SERVICE BENEFIT DISTRICT



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.

TABLE 2: ESTIMATED ASSESSMENTS FOR SANITARY SEWER

Estimated assessments for Sanitary Sewer to serve							06/19/12	
Key No.	Property Owner	Property Address	Legal Description	Area (sq. ft.)	Estimated Assessment*	Main Assessment	Annual Payment**	Resident Owners
L R JONES 2ND ADD								
AT 00344	RADFORD, JUSTIN V & CAROLYN	2100 N 135TH ST W	LOT 1, BLOCK 1	36194	$8,870	$1,810	$857	2
AT 00345	DUNCAN, SHERI	2101 N SHELLEY RD	LOT 2, BLOCK 1	39891	$9,776	$1,995	$944	1
AT 00346	KOSTER, WILBER A & GLORIA J ETAL	2060 N 135TH ST W	LOT 3, BLOCK 1	30489	$7,472	$1,524	$722	3
AT 00347	GOODRICH, NANCY I	2059 N SHELLEY RD	LOT 4, BLOCK 1	33603	$8,235	$1,680	$796	1
AT 00348	JAMES, HOWARD W TR	2042 N 135TH ST W	LOT 5, BLOCK 1	30487	$7,471	$1,524	$722	1
AT 00349	GRONNIGER, DALE ETUX	2041 N SHELLEY RD	LOT 6, BLOCK 1	33601	$8,234	$1,680	$796	2
AT 00350	KANITZ, HOWARD V ETUX	2026 N 135TH ST W	LOT 7, BLOCK 1	30489	$7,472	$1,524	$722	2
AT 00351	GRONNIGER, DALE ETUX 2041 SHELLY RD WICHITA KS 67235	2023 N SHELLEY RD	LOT 8, BLOCK 1	33603	$8,235	$1,680	$796	repeat
AT 00352	SMITH, LAVERNE R & NORMA J	2010 N 135TH ST W	LOT 9, BLOCK 1	30489	$7,472	$1,524	$722	2
AT 00353	BEACH, THOMAS L & SHERRY J	2009 N SHELLEY RD	LOT 10, BLOCK 1	33603	$8,235	$1,680	$796	2
AT 00354	ALLEN, DALE K & MILDRED J	1960 N 135TH ST W	LOT 11, BLOCK 1	30487	$7,471	$1,524	$722	2
AT 00355	GRONNIGER, DALE & DEBORAH 1945 SHELLY RD RR 9 WICHITA KS 67235		LOT 12, BLOCK 1	33601	$8,234	$1,680	$796	repeat
AT 00356	STRUNK, JEFFREY T & DIANA L	1946 N 135TH ST W	LOT 13, BLOCK 1	30489	$7,472	$1,524	$722	2
AT 00357	WALKER, JAMES H & JEANETTE P REV TR	1945 N SHELLEY RD	LOT 14, BLOCK 1	33603	$8,235	$1,680	$796	1
AT 00358	HARTMAN, ALLAN D & CAROLYN S	1924 N 135TH ST W	LOT 1, BLOCK 2	30489	$7,472	$1,524	$722	2
AT 00359	MOHR, CHAD J PO BOX 75418 WICHITA KS 67275	1923 N SHELLEY RD	LOT 2, BLOCK 2	33603	$8,235	$1,680	$796	1
AT 00360	BLANKENSHIP, BRUCE A & JOANNE	1900 N 135TH ST W	LOT 3, BLOCK 2	30487	$7,471	$1,524	$722	2
AT 00361	MOHR, ALOYSIUS A 1921 SHELLY RD WICHITA KS 67235	1901 N SHELLEY RD	LOT 4, BLOCK 2	33601	$8,234	$1,680	$796	1
AT 00362	MC CURDY, DAVID M & MANDI K	1856 N 135TH ST W	LOT 5, BLOCK 2	30489	$7,472	$1,524	$722	2
AT 00363	MC CURDY, DAVID M & MANDI K 1856 N 135TH W WICHITA KS 67235		LOT 6, BLOCK 2	33603	$8,235	$1,680	$796	repeat
			Total:	652,902	$160,000	$32,645		29

Abbreviations:
etal. = and others
etux. = and wife
etvir. = and husband
nr = non resident

* Estimated assessment for sanitary sewer construction based on $0.25 per square foot excluding inflation, and/or temporary financing. This cost does not include the Sewer Plant Equity Fee, approximately $1350 for a residential property, or for installation of the private sewer line.

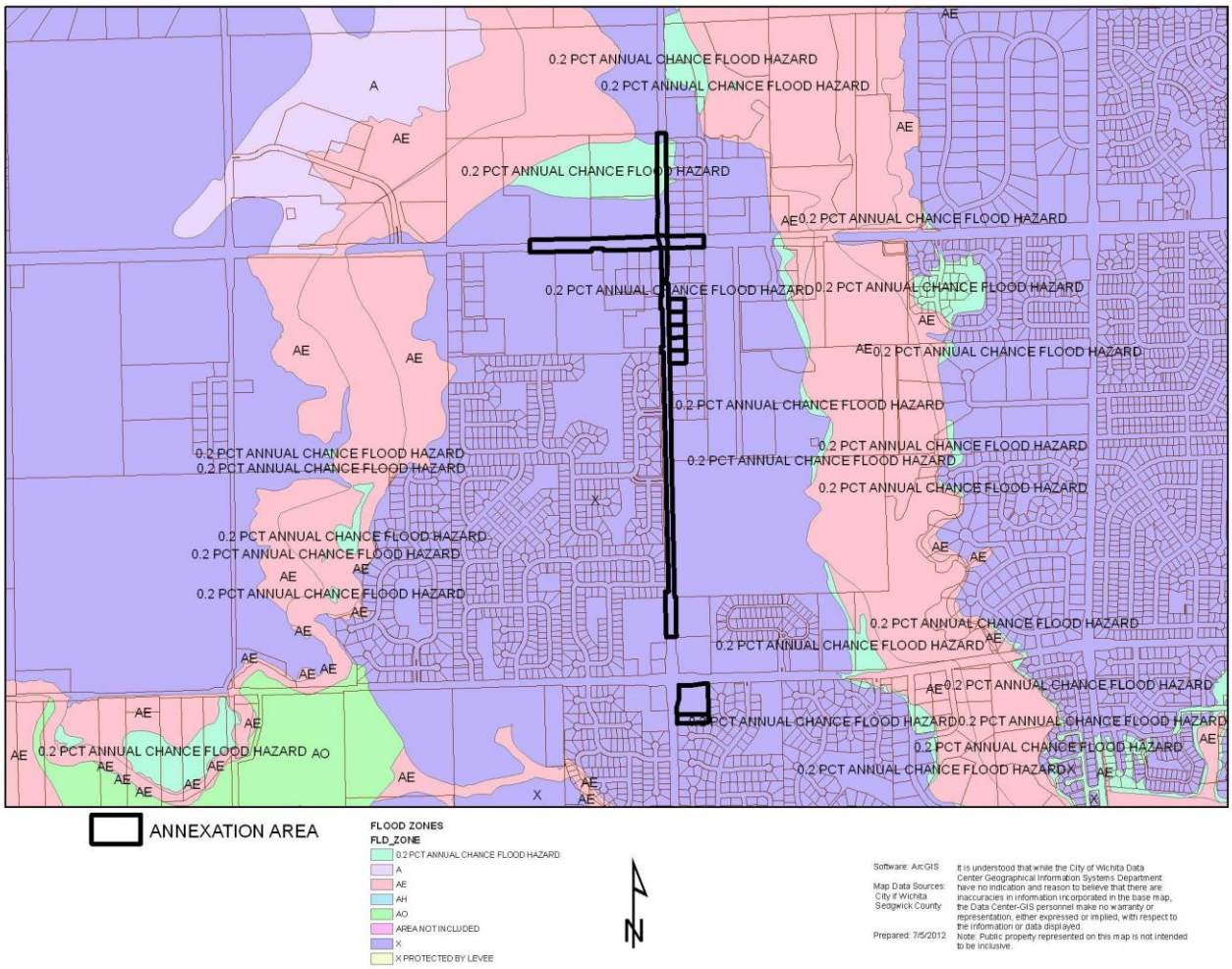
** Estimated Annual escrow payment based on 5% bond sale rate, and spread over 20 years (last bond sale, 4.69%). **The annaul payments include both the lateral and main assessments.**

D. FLOOD PROTECTION AND STORMWATER MANAGEMENT

After annexation, residential properties will be billed $2 per month and commercial properties will be billed $2 per month for every 2,139 square feet of impervious area, including paving and structures, to finance the citywide Storm Water Utility. The utility and the fee system have been in effect since 1993 in an effort to provide increased attention to drainage problems.

According to the Federal Emergency Management Agency (FEMA) Flood Boundary and Floodway Map for Sedgwick County, Kansas, the only property within the area proposed for annexation that is within the floodplain is a segment of the 135th Street West right-of-way north of 21st Street North. The map below illustrates the floodplain boundary in the area.

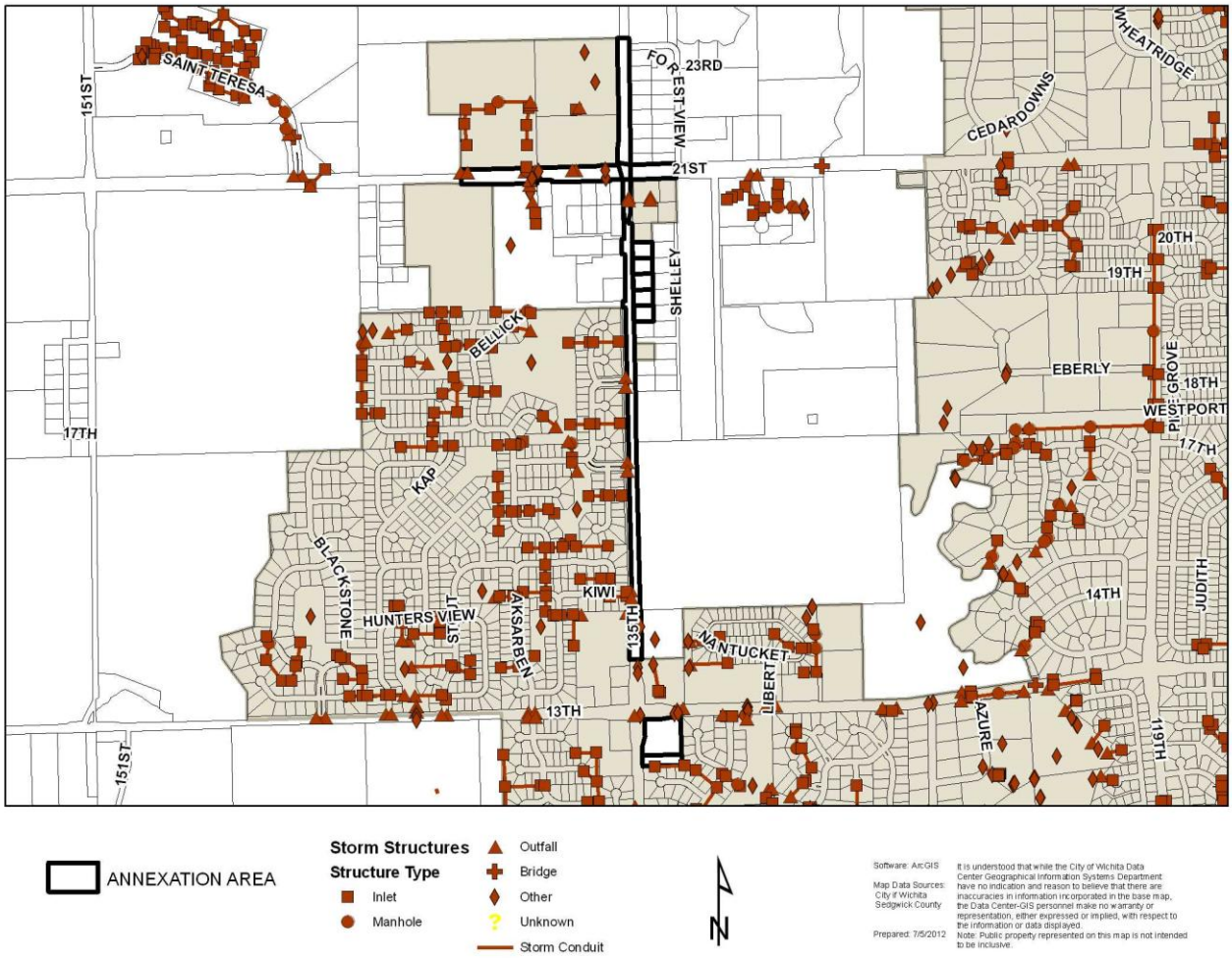
MAP NO. 7: FLOODPLAIN BOUNDARY



The City of Wichita will be making drainage improvements in the area in conjunction with the project to reconstruct 135th Street West. Curb, gutter, storm water sewer inlets, and an underground storm water sewer line will be constructed along 135th Street West from 13th Street North and 21st Street West. Off-site drainage improvements also will be constructed to help drainage problems in the area. The cost of the storm water sewer improvements is included in the overall cost of the road

reconstruction project. Construction is estimated to be completed in 2013. The map below illustrates the storm water sewer system in the area.

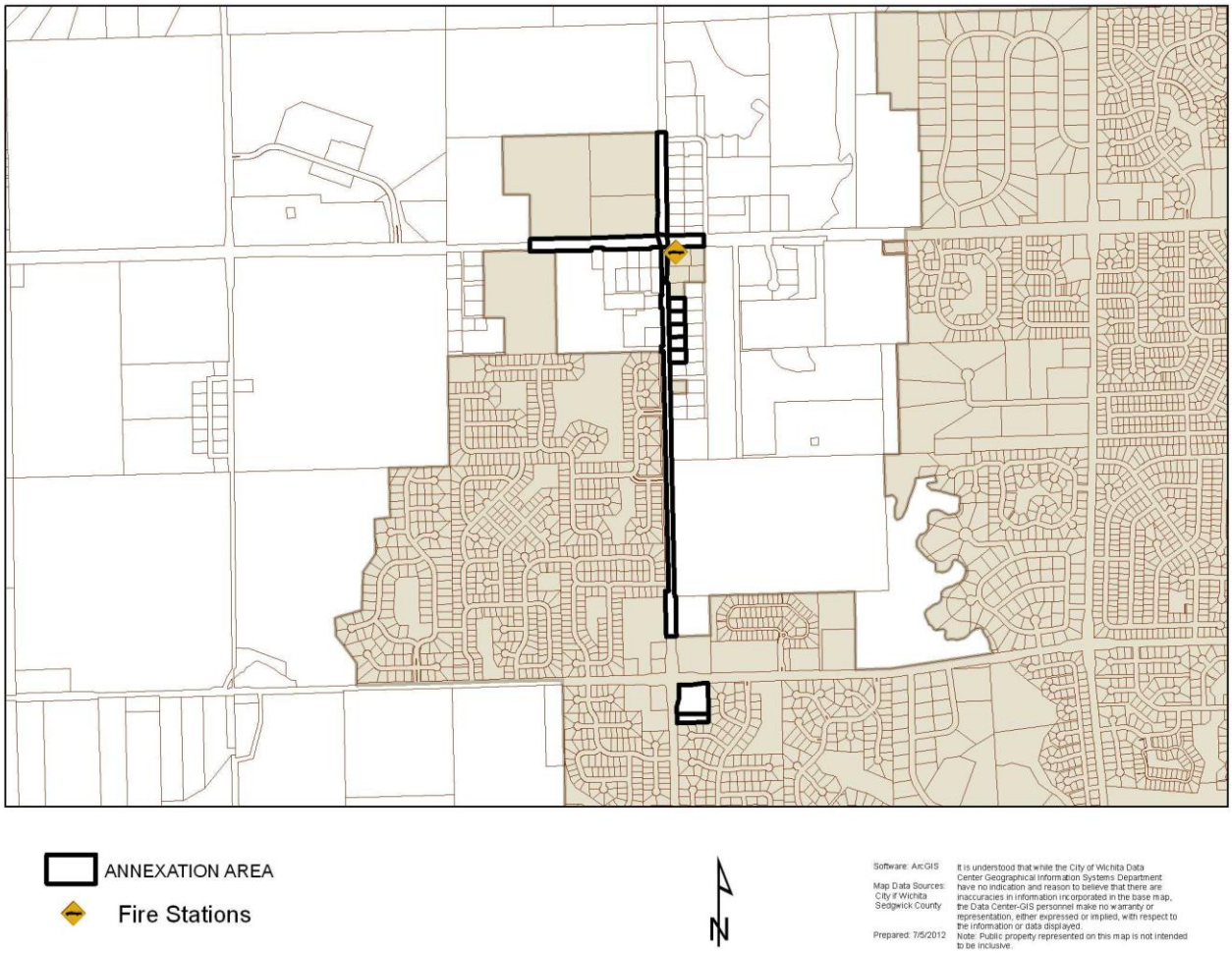
MAP NO. 8: EXISTING STORM WATER SEWER SYSTEM



E. FIRE PROTECTION

Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. The City of Wichita currently operates the closest fire station to the area proposed for annexation. Fire Station No. 21 is located immediately adjacent to the area proposed for annexation at 2110 North 135th Street West as illustrated on the map below.

MAP NO. 9: FIRE PROTECTION



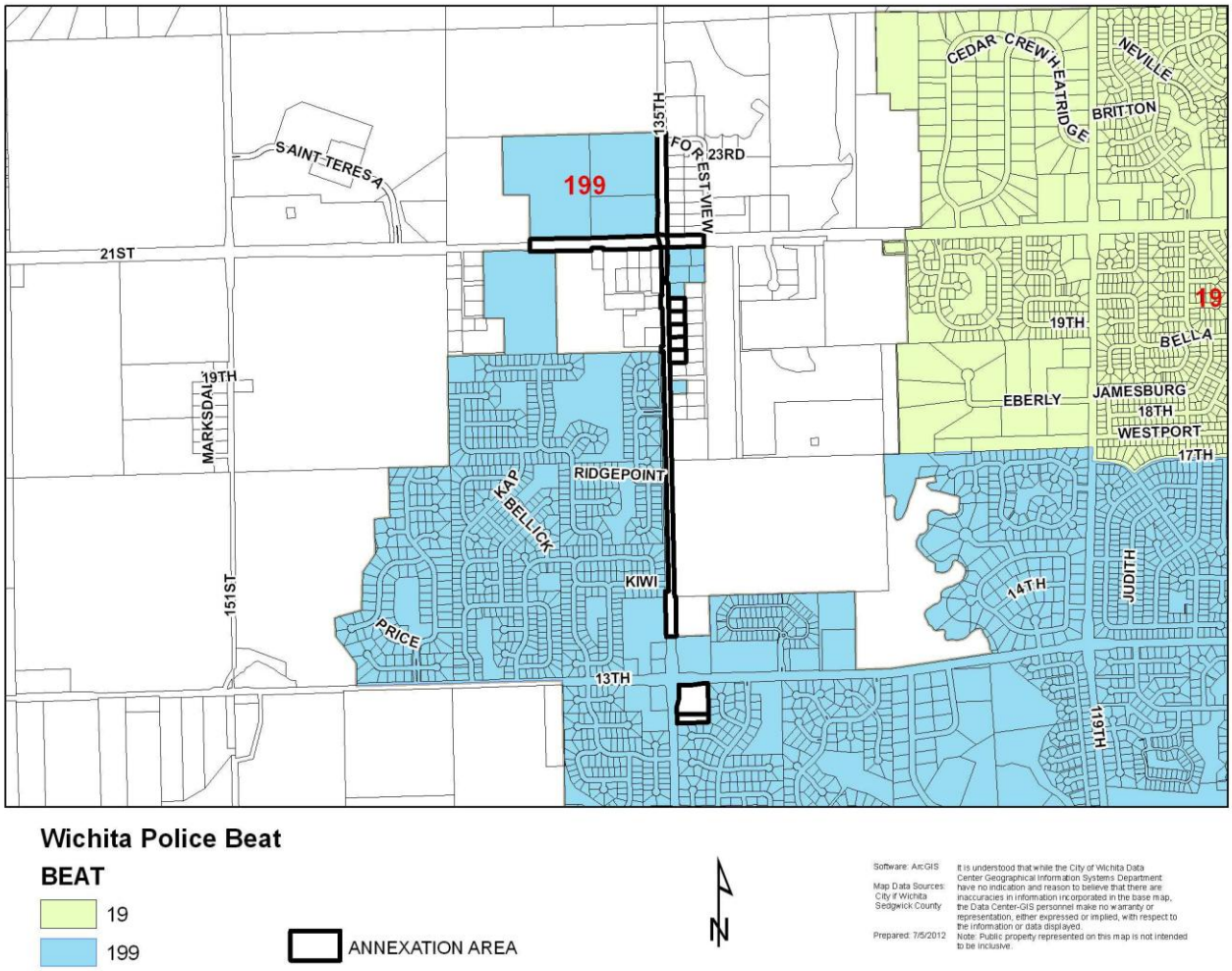
IMPACT ON COUNTY FIRE PROTECTION DISTRICT

After annexation, City-at-Large ad valorem property taxes and other general revenues will finance fire protection. The loss of revenue to the County's fire district from the decrease in its tax base from the five residential properties, if the annexation is approved, will be approximately $1,497 per year. The loss of revenue to the County's fire district from the two electrical substation properties cannot be determined because utilities are not appraised and assessed for property taxes on an individual property basis.

F. POLICE PROTECTION

Upon annexation, police protection will be provided to the area by the Patrol West Bureau, Beat 199, of the Wichita Police Department, headquartered at 661 N. Elder. Police protection will be provided to the area proposed for annexation using existing police resources. After annexation, City-at-Large ad valorem property taxes and other general revenues will finance police protection.

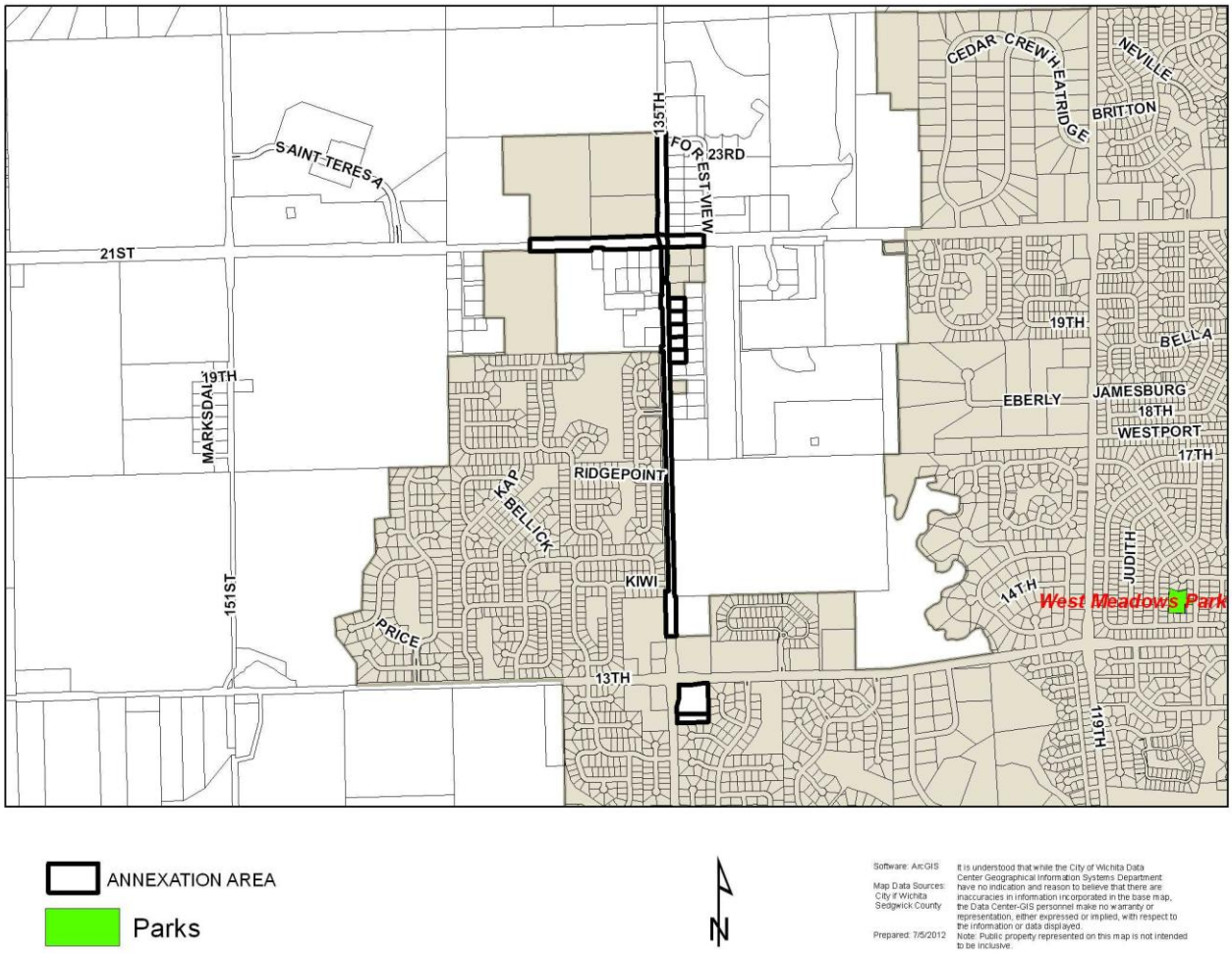
MAP NO. 10: POLICE PROTECTION



G. PARKS

West Meadows Park is the nearest City of Wichita park facility to the area proposed for annexation. West Meadows Park is located approximately 1 ¼ mile east of the annexation area at 1433 N. Parkridge. West Meadows Park is 1.5 acres in size and is developed with a basketball/multi-use court, tennis courts, children's playground, and picnic table. After annexation, City-at-Large ad valorem property taxes and other general revenues will finance parks.

MAP NO. 10: PROXIMITY TO PARKS



AD VALOREM TAX REVENUES

The current total appraised and assessed value of the five residential properties proposed for annexation is shown in the table below.

TABLE 3: TOTAL APPRAISED AND ASSESSED VALUE

Appraised Value	Assessed Value
$707,330	$81,345

Source: Sedgwick County Appraiser's Office

The appraised and assessed value for the two electrical substation properties cannot be determined, as the State of Kansas appraises and assesses utilities for property taxes on a Tax Unit basis rather than an individual property basis.

AD VALOREM TAXES UPON ANNEXATION

After annexation, the City of Wichita will collect at total of approximately $2,632 ($32.359/$1000 x $81,345 assessed valuation) in ad valorem property taxes annually from the five residential properties proposed for annexation. The amount of ad valorem property taxes to be collected from the two electrical substation properties cannot be estimated as utilities are not appraised and assessed for property taxes on an individual property basis. Property owners in the annexation will no longer pay ad valorem property taxes to Attica Township, County Fire District, and South Central Kansas Library System. The school district (USD 266- Maize) will not change with annexation. The overall ad valorem property tax rate will change from 115.478 mills to 122.132 mills, a 5.8% increase. In order to determine how annexation will affect individual property owners financially, the following tables compare current taxes to the estimated taxes after annexation for the five residential parcels proposed for annexation.

TABLE 4: TAX COMPARISON FOR 1960 N. 135TH ST. W.

Taxing Entity (mill levy)	*Estimated Current Taxes*	*Estimated Taxes After Annexation*	*Estimated Difference in Taxes*
State of Kansas (1.5)	$24.03	$24.03	--
Sedgwick County (29.428)	$471.44	$471.44	--
USD 266 - Maize (58.845)	$942.70	$942.70	--
Attica Township (6.17)	$98.85	$0.00	-$98.85
County Fire District (18.397)	$294.73	$0.00	-$294.73
South Central Kansas Library System (1.138)	$18.23	$0.00	-$18.23
City of Wichita (32.359)	$0.00	$518.39	+$518.39
State School Levy Exemption	-$46.00	-$46.00	--
Total	$1,803.98	$1,910.56	+$106.58

TABLE 5: TAX COMPARISON FOR 2010 N. 135TH ST. W.

Taxing Entity (mill levy)	*Estimated Current Taxes*	*Estimated Taxes After Annexation*	*Estimated Difference in Taxes*
State of Kansas (1.5)	$17.92	$17.92	--
Sedgwick County (29.428)	$351.64	$351.64	--
USD 266 - Maize (58.845)	$703.13	$703.13	--
Attica Township (6.17)	$73.73	$0.00	-$73.73
County Fire District (18.397)	$219.83	$0.00	-$219.83
South Central Kansas Library System (1.138)	$13.60	$0.00	-$13.60
City of Wichita (32.359)	$0.00	$386.66	+$386.66
State School Levy Exemption	-$46.00	-$46.00	--
Total	$1,333.85	$1,413.35	+$79.50

TABLE 6: TAX COMPARISON FOR 2026 N. 135TH ST. W.

Taxing Entity (mill levy)	*Estimated Current Taxes*	*Estimated Taxes After Annexation*	*Estimated Difference in Taxes*
State of Kansas (1.5)	$24.51	$24.51	--
Sedgwick County (29.428)	$480.91	$480.91	--
USD 266 - Maize (58.845)	$961.65	$961.65	--
Attica Township (6.17)	$100.83	$0.00	-$100.83
County Fire District (18.397)	$300.64	$0.00	-$300.64
South Central Kansas Library System (1.138)	$18.60	$0.00	-$18.60
City of Wichita (32.359)	$0.00	$528.81	+$528.81
State School Levy Exemption	-$46.00	-$46.00	--
Total	$1,841.14	$1,949.88	+$108.74

TABLE 7: TAX COMPARISON FOR 2042 N. 135TH ST. W.

Taxing Entity (mill levy)	*Estimated Current Taxes*	*Estimated Taxes After Annexation*	*Estimated Difference in Taxes*
State of Kansas (1.5)	$24.86	$24.86	--
Sedgwick County (29.428)	$487.68	$487.68	--
USD 266 - Maize (58.845)	$975.18	$975.18	--
Attica Township (6.17)	$102.25	$0.00	-$102.25
County Fire District (18.397)	$304.88	$0.00	-$304.88
South Central Kansas Library System (1.138)	$18.86	$0.00	-$18.86
City of Wichita (32.359)	$0.00	$536.25	+$536.25
State School Levy Exemption	-$46.00	-$46.00	--
Total	$1,867.71	$1,977.97	+$110.26

TABLE 8: TAX COMPARISON FOR 2060 N. 135TH ST. W.

Taxing Entity (mill levy)	*Estimated Current Taxes*	*Estimated Taxes After Annexation*	*Estimated Difference in Taxes*
State of Kansas (1.5)	$30.69	$30.69	--
Sedgwick County (29.428)	$602.16	$602.16	--
USD 266 - Maize (58.845)	$1,204.09	$1,204.09	--
Attica Township (6.17)	$126.26	$0.00	-$126.26
County Fire District (18.397)	$376.44	$0.00	-$376.44
South Central Kansas Library System (1.138)	$23.29	$0.00	-$23.29
City of Wichita (32.359)	$0.00	$662.13	+$662.13
State School Levy Exemption	-$46.00	-$46.00	--
Total	$2,316.93	$2,453.07	+$136.14

TIMETABLE FOR SERVICES

The City of Wichita is capable of providing a variety of municipal services, including those provided by the township, to all areas of the city, and will provide a level of service, at least equal to that provided by the township to the area proposed for annexation. The proposed financing and timetable for the extension of municipal services to the area proposed for annexation are shown in Table 11. Most city-wide municipal services such as fire, police, park, library, building inspection and other general government services will be extended to the area immediately upon annexation. Other services, such as water and sanitary sewer, can be extended or programmed upon petition by the benefiting parties, with the cost allocated as described.

TABLE 11: TIMING AND FINANCING OF SERVICES

Service	Proposed for the Area	Timing	Financing
Street Maintenance	Yes	Upon Annexation	City at large
Local Street Improvements	As Required	Upon Petition	100% by benefiting property
Street Lights	Yes	2013	City at large
Ditch Cleaning	As Required	Upon Annexation	City at large
Culvert Cleaning	As Required	Upon Annexation	Storm Water Utility
Water Mains	Yes	Currently provided, continued after annexation	Per City Policy
Water Laterals	As Required	By Request	100% by benefiting property
Fire Hydrants	As Required	Upon Petition	100% by benefiting property
Sewer Mains	As Required	Upon Petition	Per City Policy
Sewer Laterals	As Required	Upon Petition	Per City Policy
Fire Protection	Provided by City & County per 1st Responder Agreement	Currently provided, continued after annexation	City at large
Police Protection	Yes	Upon Annexation	City at large
Parks	Yes	Upon Annexation	City at large
Branch Library	No	Not Applicable	City at large and fees
City Building Code Enforcement	Yes	Upon Annexation	User fees
City Health Code Enforcement	Yes	Upon Annexation	City at large and user fees
Minimum Housing Code & Zoning Code Enforcement	Yes	Upon Annexation	User fees
Other Services	Yes	Upon Annexation	City at Large and user fees

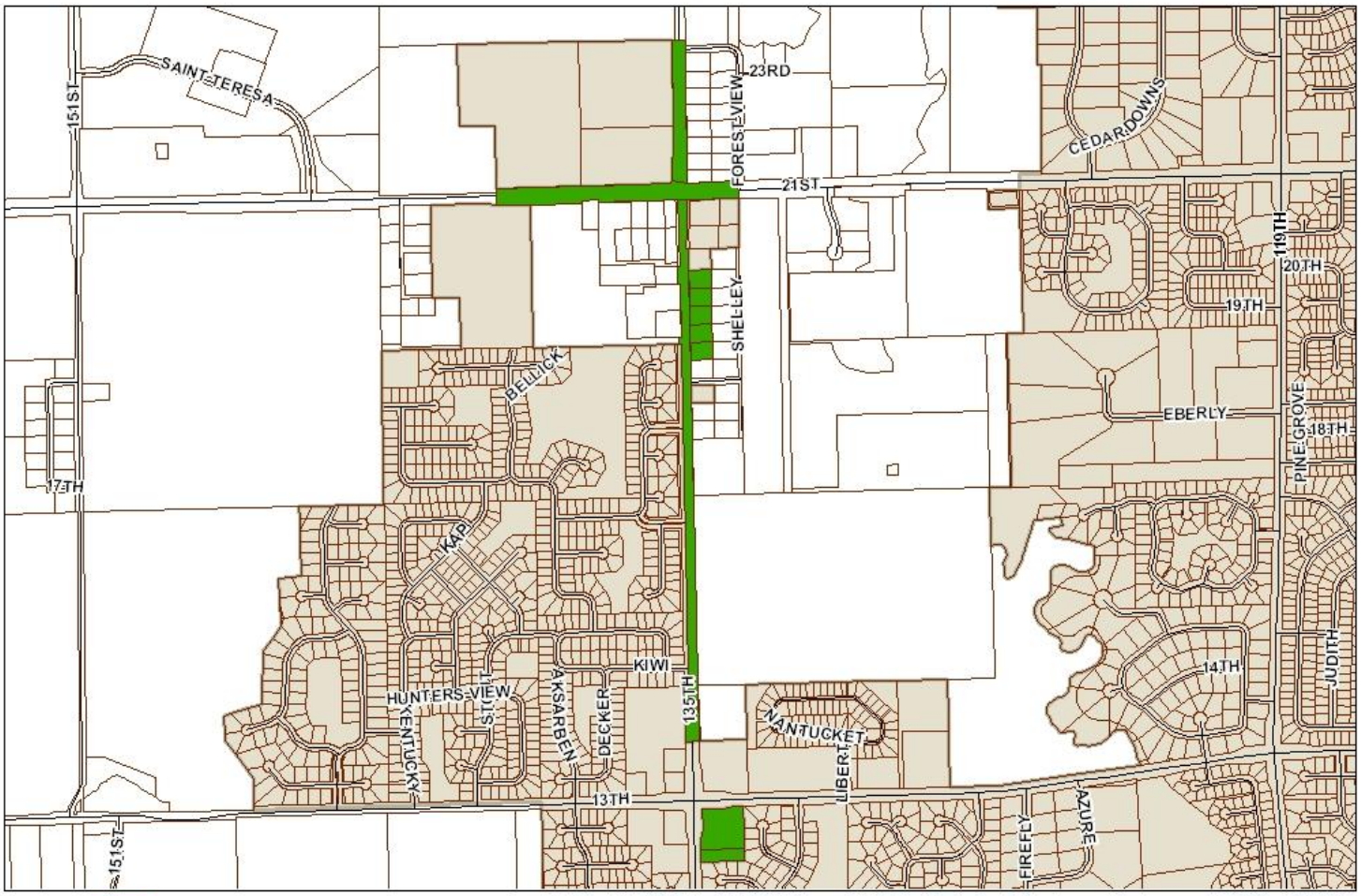
Planning Agenda **Item:** A12-03 Attachment No. 1

An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

General Location: 135th Street West, Generally Between 13th Street North and 21st Street North

Address:	N/A	**Reason(s) for Annexation:**	
21.16	Area in Acres		Request
12	Existing population (est.)	X	Unilateral
5	Existing dwelling units		Island
2	Existing industrial/commercial units		Other:

Existing zoning:	"SF-20" Single Family Residential



ANNEXATION AREA

WICHITA

UNINCORPORATED

N

Software: ArcGIS
Map Data Sources: City of Wichita, Sedgwick County
Prepared: 2/9/09

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property represented on this map is not intended to be inclusive.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council Members

SUBJECT: General Obligation Refunding, Sales Tax Improvement and Sales Tax Refunding Bond Sale

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale the following improvement and refunding bonds: General Obligation Refunding Bonds, Series 2012A in the principal amount not to exceed $24,500,000; General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law) in the principal amount not to exceed $3,000,000; General Obligation Refunding Bonds, Series 2012C in the principal amount not to exceed $4,850,000; General Obligation Sales Tax (LST) Bonds, Series 2012D in the principal amount not to exceed $18,540,000; and General Obligation Sales Tax Refunding Bonds, Series 2012E in the principal amount not to exceed $26,600,000. The bonds are being issued to permanently finance freeway improvements and to refund previously issued special assessment, tax increment financing and sales tax bonds in order to provide savings on future debt service costs to the City.

Analysis: The proceeds from the sale of the Series 2012A Bonds will be used for the advance refunding of the City's outstanding General Obligation Bonds, Series 788, 790 and 794, by providing the necessary funds to pay the principal and redemption premium on the redemption dates of September 1, 2014 and September 1, 2015.

The proceeds from the sale of the Series 2012B Bonds and the Series 2012C Bonds will be used for the advance refunding of the City's outstanding General Obligation Bonds, Series 959 and Series 960, respectively, by providing the necessary funds to pay the principal and redemption premium on the redemption date of September 1, 2014.

The proceeds from the sale of the Series 2012D Bonds in the principal amount of not to exceed $18,540,000 will be used for reimbursement of previously incurred expenses to finance Kellogg and other freeway improvements.

The proceeds from the sale of the Series 2012E Bonds will be used for the advance refunding of the City's outstanding General Obligation Sales Tax Bonds, Series 2007 by providing the necessary funds to pay the principal and redemption premium on the redemption date of October 1, 2014.

Bids will be accepted electronically through ***PARITY*** Electronic Bid Submission System on October 16, 2012 until 10:00 a.m. CT in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:00 a.m. deadline.

The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest true interest rate.

The City has established a minimum 3% threshold as an appropriate level of savings in connection with a bond refunding. In the event the actual bids on the refunding bonds do not produce the minimum level of savings, the acceptance of bids on the refunding bonds will not be recommended.

Financial Considerations: The Series 2012A Refunding Bonds will mature in 2023 and the Series 2012B, 2012C and 2012E Refunding Bonds will mature in 2022, with principal maturities of each Series structured to produce level and positive savings in all future years. The Refunding Bonds are not callable prior to their stated maturity dates.

The Series 2012D General Obligation Sales Tax Bonds will mature serially over 15 years and will be paid from the City's portion of funds derived from a one percent (1%) county-wide retailers' sales tax that is dedicated by Ordinance 41-815 to paying the costs of road, highway and bridge improvements, including right-of-way acquisitions. The Series 2012D Bonds are callable at par on and after October 1, 2021.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspective Goals through the permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

Legal Considerations: The authorizing Ordinances and Resolutions have been prepared by Bond Counsel and approved as to form by the Law Department, subject to tabulation and approval of bids and the insertion of final terms and sizing approved by the City Manager, his designee or the Director of Finance.

Recommendations/Actions: It is recommended that the City Council: (1) direct the opening and reading of the bids; (2) award the sale of the Bonds subject to approval of the final sizing terms of the Bonds by the City Manager, his designee or the Director of Finance; (3) adopt the Bond Ordinances and Resolutions and authorize the publication of the Bond Ordinances; and (4) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond Note Ordinances on the date of their introduction.

Attachments: For each bond series:
Request for Declaration of Emergency
Resolution Authorizing Issuance of Bonds
Ordinance Authorizing Issuance of Bonds

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, October 16, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $24,500,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 2012A Bonds occur on the same day bids are received and to enable the City to deliver the Series 2012A Bonds authorized by said Ordinance on November 15, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, October 16, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $3,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 2012B Bonds occur on the same day bids are received and to enable the City to deliver the Series 2012B Bonds authorized by said Ordinance on November 15, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, October 16, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012C, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $4,850,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 2012C Bonds occur on the same day bids are received and to enable the City to deliver the Series 2012C Bonds authorized by said Ordinance on November 15, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, October 16, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX BONDS, SERIES 2012D, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED $18,540,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE CONSTRUCTION OF ROADS, HIGHWAYS AND BRIDGES IN THE CITY; PLEDGING A PORTION OF THE COUNTY RETAILER'S SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 2012D Bonds occur on the same day bids are received and to enable the City to deliver the Series 2012D Bonds authorized by said Ordinance on November 15, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, October 16, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX REFUNDING BONDS, SERIES 2012E, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $26,600,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY THE COSTS OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION SALES TAX BONDS OF THE CITY; PLEDGING A PORTION OF THE COUNTY RETAILER'S SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 2012E Bonds occur on the same day bids are received and to enable the City to deliver the Series 2012E Bonds authorized by said Ordinance on November 15, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

ORDINANCE NO. 49-354

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $24,500,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the **"**City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the City has previously issued the following:

(a) $14,865,000 original principal amount General Obligation Bonds, Series 788, dated as of February 1, 2007 (the "Series 788 Bonds");

(b) $12,470,000 original principal amount General Obligation Bonds, Series 790, dated as of August 1, 2007 (the "Series 790 Bonds"); and

(c) $10,050,000 original principal amount General Obligation Bonds, Series 794, dated as of August 1, 2008 (the "Series 794 Bonds"); and

WHEREAS, in order to achieve interest cost savings through early redemption of the Series 788 Bonds maturing in the years 2015 through 2022, the Series 790 Bonds maturing in the years 2015 through 2022 and the Series 794 Bonds maturing in the years 2016 through 2023 (collectively, the "Refunded Bonds"), and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds; and

WHEREAS, the Governing Body is authorized by K.S.A. 10-427 *et seq*., to issue the City's general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, pursuant to Resolution No. 12-218 duly adopted on September 25, 2012, the Governing Body advertised for bids at a public sale approximately $24,500,000 principal amount of the City's General Obligation Refunding Bonds, Series 2012A (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to refund and redeem the Refunded Bonds, the Bonds shall be issued in an amount not to exceed $24,500,000. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et-seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City, and, if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if

any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected. Notwithstanding the foregoing, the Governing Body may permit the deferral of special assessments provided such deferrals do not adversely impact the tax-exempt status of the interest on the Bonds and comply with applicable State law and provided further that the City-at-large provides for the payment of principal of and interest on the Bonds in accordance with the further terms of this Ordinance.

Section 5. **Tax Covenants.** The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. **Designation of Paying Agent and Bond Registrar.** Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk

are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds, an escrow agreement with a Kansas bank with trust powers to be selected by the City to provide for the escrow of the proceeds of the Bonds to be used to redeem the Refunded Bonds and pay interest on the Bonds through the date of redemption of the refunded Bonds (the "Escrow Agreement") and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement, the Escrow Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, including notices of redemption of the Refunded Bonds, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 49-355

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $3,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the **"**City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, pursuant to and under the authority of K.S.A. 12-1770 *et seq.*, as amended and supplemented (the "TIF Act"), and Ordinance No. 42-966 passed on December 12, 1995, as modified by Ordinance No. 45-339 adopted on June 25, 2002, and Ordinance No. 46-407 passed on November 23, 2004, the Governing Body of the City has established the East Bank Redevelopment District (the "Redevelopment District"); and

WHEREAS, pursuant to Ordinance No. 45-983 of the City passed on February 3, 2004, the Governing Body of the City has approved the East Bank Redevelopment District, WaterWalk Redevelopment Project Plan, dated January 27, 2004, which described the WaterWalk Redevelopment Project (the "Project"), identified the boundaries of the WaterWalk Project Area (the "Project Area") and indicated the City's intent to use the Tax Increment (as defined in the TIF Act) generated from real property within the Project Area to pay for debt service on general obligation bonds issued by the City to finance certain redevelopment costs of the Project; and

WHEREAS, pursuant to Article 12, Section 5 of the Constitution of the State and Charter Ordinance No. 156 of the City, the Governing Body by actions duly taken has further authorized the issuance of general obligation bonds for the payment of certain costs of the Project; and

WHEREAS, the City has previously issued its $4,390,000 original principal amount General Obligation Bonds, Series 959 (Taxable Under Federal Law), dated August 1, 2007 (the "Series 959 Bonds"), which are payable as to both the principal of and interest thereon from Tax Increment Revenues; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Series 959 Bonds maturing in the years 2015 through 2022 (the "Refunded Bonds"), and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds; and

WHEREAS, the Governing Body is authorized by K.S.A. 10-427 *et seq*., to issue the City's general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, pursuant to Resolution No. 12-218 duly adopted on September 25, 2012, the Governing Body advertised for bids at a public sale approximately $3,000,000 principal amount of the City's General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law) (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Tax Increment Fund. The City covenants and agrees that from and after the delivery of the Bonds and continuing as long as any of the Bonds remain outstanding and unpaid, all of the Tax Increment from the Redevelopment District will be paid and deposited into special fund (the "Tax Increment Fund") as required by the TIF Act, and that said revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and administered and applied solely for the purposes and in the manner provided in the TIF Act. Moneys deposited in the Tax Increment Fund from the Tax Increment generated from the Project Area (the "Tax Increment Revenues"), are pledged to the payment of the Bonds and any bonds issued on a parity with the Bonds.

Section 3. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to refund and redeem the Refunded Bonds, the Bonds shall be issued in an amount not to exceed $3,000,000. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et-seq.,* as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from Tax Increment Revenues, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The pledge of the Tax Increment Revenues to the payment of the principal of and interest on the Bonds under this Ordinance is on a parity with the City's General Obligation Bonds, Series 959 Bonds (Taxable Under Federal Law), dated August 1, 2007, the City's General Obligation Bonds Series 960, dated August 1, 2007, the City's General Obligation Bonds, Series 961 (Taxable Under Federal Law), dated August 1, 2012 and the City's General Obligation Refunding Bonds, Series 2012C, dated November 1, 2012. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 5. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of and interest on the Bonds as and when the same becomes due and payable by collecting the Tax Increment Revenues as provided by law; provided, that if the amounts collected from the Tax Increment Revenue are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of the Tax Increment Revenue collected.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 et seq., as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds, an escrow agreement with a Kansas bank with trust powers to be selected by the City to provide for the escrow of the proceeds of the Bonds to be used to redeem the

Refunded Bonds and pay interest on the Bonds through the date of redemption of the refunded Bonds (the "Escrow Agreement") and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement, the Escrow Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, including notices of redemption of the Refunded Bonds, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 49-356

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012C, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $4,850,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the **"**City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, pursuant to and under the authority of K.S.A. 12-1770 *et seq.*, as amended and supplemented (the "TIF Act"), and Ordinance No. 42-966 passed on December 12, 1995, as modified by Ordinance No. 45-339 adopted on June 25, 2002, and Ordinance No. 46-407 passed on November 23, 2004, the Governing Body of the City has established the East Bank Redevelopment District (the "Redevelopment District"); and

WHEREAS, pursuant to Ordinance No. 45-983 of the City passed on February 3, 2004, the Governing Body of the City has approved the East Bank Redevelopment District, WaterWalk Redevelopment Project Plan, dated January 27, 2004, which described the WaterWalk Redevelopment Project (the "Project"), identified the boundaries of the WaterWalk Project Area (the "Project Area") and indicated the City's intent to use the Tax Increment (as defined in the TIF Act) generated from real property within the Project Area to pay for debt service on general obligation bonds issued by the City to finance certain redevelopment costs of the Project; and

WHEREAS, pursuant to Article 12, Section 5 of the Constitution of the State and Charter Ordinance No. 156 of the City, the Governing Body by actions duly taken has further authorized the issuance of general obligation bonds for the payment of certain costs of the Project; and

WHEREAS, the City has previously issued its $7,385,000 original principal amount General Obligation Bonds, Series 960, dated August 1, 2007 (the "Series 960 Bonds"), which are payable as to both the principal of and interest thereon from Tax Increment Revenues; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Series 960 Bonds maturing in the years 2015 through 2022 (the "Refunded Bonds"), and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds; and

WHEREAS, the Governing Body is authorized by K.S.A. 10-427 et seq., to issue the City's general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, pursuant to Resolution No. 12-218 duly adopted on September 25, 2012, the Governing Body advertised for bids at a public sale approximately $4,850,000 principal amount of the City's General Obligation Refunding Bonds, Series 2012C (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Tax Increment Fund. The City covenants and agrees that from and after the delivery of the Bonds and continuing as long as any of the Bonds remain outstanding and unpaid, all of the Tax Increment from the Redevelopment District will be paid and deposited into special fund (the "Tax Increment Fund") as required by the TIF Act, and that said revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and administered and applied solely for the purposes and in the manner provided in the TIF Act. Moneys deposited in the Tax Increment Fund from the Tax Increment generated from the Project Area (the "Tax Increment Revenues"), are pledged to the payment of the Bonds and any bonds issued on a parity with the Bonds.

Section 3. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to refund and redeem the Refunded Bonds, the Bonds shall be issued in an amount not to exceed $4,850,000. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 et-seq., as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from Tax Increment Revenues, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The pledge of the Tax Increment Revenues to the payment of the principal of and interest on the Bonds under this Ordinance is on a parity with the City's General Obligation Bonds, Series 959 Bonds (Taxable Under Federal Law), dated August 1, 2007, the City's General Obligation Bonds Series 960, dated August 1, 2007, the City's General Obligation Bonds, Series 961 (Taxable Under Federal Law), dated August 1, 2012 and the City's General Obligation Refunding Bonds, Series 2012B, dated November 1, 2012. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 4. **Terms, Details and Conditions of the Bonds.** The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 5. **Levy and Collection of Annual Tax.** The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of and interest on the Bonds as and when the same becomes due and payable by collecting the Tax Increment Revenues as provided by law; provided, that if the amounts collected from the Tax Increment Revenue are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of the Tax Increment Revenue collected.

Section 6. **Tax Covenants.** The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of

the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 7. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.,* as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 8. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds, an escrow agreement with a Kansas bank with trust powers to be selected by the City to provide for the escrow of the proceeds of the Bonds to be used to redeem the Refunded Bonds and pay interest on the Bonds through the date of redemption of the refunded Bonds (the "Escrow Agreement") and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement, the Escrow Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, including notices of redemption of the Refunded Bonds, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 9. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 49-357

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX BONDS, SERIES 2012D, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF NOT TO EXCEED $18,540,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE CONSTRUCTION OF ROADS, HIGHWAYS AND BRIDGES IN THE CITY; PLEDGING A PORTION OF THE COUNTY RETAILER'S SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City") is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the City is authorized under the laws of the State to issue general obligation bonds to construct roads, highways and bridges in the City; and

WHEREAS, the City is the recipient of funds derived from a county-wide retailer's sales tax in Sedgwick County, Kansas, pursuant to K.S.A. 12-187 *et seq.*, and is authorized under K.S.A. 12-195b to issue general obligation bonds for the payment of the costs of public facilities or improvements and to pledge the revenues received by the City from a county-wide retailer's sales tax for the payment of such general obligation bonds; and

WHEREAS, the Governing Body of the City has heretofore adopted Ordinance No. 41-815 pledging one-half of the revenues received by the City from the county-wide retailer's sales tax for the purpose of financing the construction of roads, highways and bridges in the City (such portion of the sales tax revenue, plus investment earnings thereon, except for investment earnings required to be paid United States Treasury to meet the rebate requirements of Section 148(f) of the Code, are referred to herein as the "Pledged Revenue" as more fully defined in the hereinafter defined Bond Resolution); and

WHEREAS, on August 21, 2012, the Governing Body of the City adopted Resolution No. 12-201 (the "Sales Tax Pledge Resolution"), finding and determining it to be necessary to finance the costs of constructing roads, highways and bridges in the City through the issuance of general obligation bonds under the authority of K.S.A. 12-195b, and to pledge 50% of the revenues received by the City from the county-wide retailer's sales tax for the payment of such general obligation bonds; and

WHEREAS, the Sales Tax Pledge Resolution was duly published in the City's official newspaper once each week for 2 consecutive weeks, on August 24, 2012, and August 31, 2012, as required by law, and within the 30 day period following the last said publication date, no sufficient written petition to contest the proposed issuance of such general obligation bonds and the pledging of a portion of the sales tax revenues to the payment thereof was filed with the Sedgwick County, Kansas Commissioner of Elections; and

WHEREAS, the Governing Body of the City has heretofore issued the following general obligation bonds and has pledged the Pledged Revenue to pay the principal of and interest on such bonds:

(a) General Obligation Refunding and Improvement Sales Tax Bonds, Series 2003B (the "Series 2003B Bonds"), issued in the original amount of $48,855,000; and

(b) General Obligation Sales Tax Bonds, Series 2007 (the "Series 2007 Bonds"), issued in the original amount of $40,500,000; and

(c) General Obligation Sales Tax Refunding Bonds, Series 2009A (the "Series 2009A Bonds"), issued in the original amount of $28,385,000; and

(d) General Obligation Sales Tax Refunding Bonds, Series 2010A (the "Series 2010A Bonds"), issued in the original amount of $21,420,000; and

(e) General Obligation Sales Tax Bonds, Series 2011A (the "Series 2011A Bonds"), issued in the original amount of $8,755,000; and

(f) General Obligation Sales Tax Refunding Bonds, Series 2011B (the "Series 2011B Bonds"), issued in the original amount of $16,240,000 and

WHEREAS, the Governing Body intends to further consider on this date the authorization to issue the City's General Obligation Sales Tax Refunding Bonds, Series 2012E (the "Series 2012E Bonds"), issued in the original amount not to exceed $26,600,000; and

WHEREAS, the ordinances and resolutions of the City authorizing the issuance of the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012E Bonds (collectively, the "Outstanding Bond Ordinances") authorize or will authorize the issuance of additional general obligation bonds which may be on a parity with and co-equal in stature and priority to the lien of the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012E Bonds (collectively, the "Outstanding Parity Bonds") on such portion of the revenues from the sales tax, if certain conditions are satisfied; and

WHEREAS, the Governing Body hereby finds and determines that the conditions and requirements of the Outstanding Bond Ordinances precedent to the issuance of additional revenue bonds on a parity with and co-equal to the Outstanding Parity Bonds have been or shall be, prior to or on the Date of Issuance, met; and

WHEREAS, pursuant to Resolution No. 12-218 duly adopted on September 25, 2012, the Governing Body advertised for bids at a public sale approximately $18,540,000 principal amount of the City's General Obligation Sales Tax Bonds, Series 2012D (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to pledge a portion of the revenues allocated to the City from the county-wide retailer's sales tax to the payment of the principal of and the interest on the Bonds on a parity with and co-equal to the pledge of such revenues to payment of the Outstanding Parity Bonds, to provide for the levy and collection of an annual tax in order to provide for the payment of any portion of the principal of and the interest on the Bonds not paid from the sales tax revenues, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Project Costs, the Bonds in the aggregate principal amount of $18,540,000 shall be issued.

The Governing Body hereby covenants and agrees to make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable from the Pledged Revenues; and, if not so paid, from ad valorem taxes levied upon all of the taxable tangible property located within the territorial limits of the City in such amounts, if any, as are necessary to pay any portion of the principal and interest on the Bonds not paid from the Pledged Revenues. The Bonds shall be and constitute valid and legally binding general obligations of the City; and the full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and

delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Pledge of Pledged Revenues. The principal of, premium, if any, and the interest on the Bonds is secured by and payable first from a first and prior lien on and an irrevocable pledge of the Pledged Revenues, which lien shall be on a parity with and co-equal to the lien of the Outstanding Parity Bonds on the Pledged Revenues; and the City hereby irrevocably pledges the Pledged Revenues solely and only to the payment of the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds. The pledge of the Pledged Revenues shall be valid and binding from and after the effective date of this Ordinance, and such Pledged Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without the physical delivery of such Pledged Revenues or any further action on the part of the City, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind against the City, irrespective of whether such parties have notice hereof.

The Bonds shall have no priority with respect to the payment of principal or interest over any general obligation bonds of the City hereafter issued in accordance with the provisions of this Ordinance and the Bond Resolution which are on a parity with the Bonds, nor shall any other general obligation bonds of the City heretofore or hereafter issued have priority over the payment from the Pledged Revenues of the principal of or the interest on the Bonds. The Bonds are, however, on a parity with and co-equal to the Outstanding Parity Bonds respecting payment of the principal amount thereof and the interest thereon.

Section 5. Covenant to Collect Sales Tax. The City hereby covenants that, to the extent of its control, it will cause the Sales Tax to be maintained and collected as provided by the Act in order to generate Pledged Revenues sufficient to pay the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds, as and when the same shall become due and payable. The City hereby further covenants that it will take no action of any kind which would in any manner impair or delay the collection of the Sales Tax or which might otherwise adversely affect the Pledged Revenues, and in the event any litigation, claim or proceeding shall be commenced in any form or tribunal under which the Sales Tax may be challenged or the pledge of the Pledged Revenues pursuant to this Ordinance or the Bond Resolution, or which in any other way may adversely affect the collection of the Pledged Revenues by the City sufficient to pay the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds, the City shall take all action necessary to contest any such litigation or proceeding to the extent the City has standing to contest such litigation or proceedings and is otherwise permitted by law to take such action.

Section 6. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all

other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code; and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 7. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 8. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds, and the Bonds. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof; and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the

City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 9. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper; provided; however that all references to the Series 2012E Bonds shall only become effective upon the issuance and delivery of the Series 2012E Bonds by the City.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal)

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

ORDINANCE NO. 49-358

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX REFUNDING BONDS, SERIES 2012E, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $26,600,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY THE COSTS OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION SALES TAX BONDS OF THE CITY; PLEDGING A PORTION OF THE COUNTY RETAILER'S SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL AMOUNT OF AND INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City") is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the City is the recipient of funds derived from a county-wide retailer's sales tax in Sedgwick County, Kansas, pursuant to K.S.A. 12-187 *et seq.*, and is authorized under K.S.A. 12-195b to issue general obligation bonds for the payment of the costs of public facilities or improvements and to pledge the revenues received by the City from a county-wide retailer's sales tax for the payment of such general obligation bonds; and

WHEREAS, the Governing Body of the City has heretofore adopted Ordinance No. 41-815 pledging one-half of the revenues received by the City from the county-wide retailer's sales tax for the purpose of financing the construction of roads, highways and bridges in the City (such portion of the sales tax revenue, plus investment earnings thereon, except for investment earnings required to be paid United States Treasury to meet the rebate requirements of Section 148(f) of the Code, are referred to herein as the "Pledged Revenue" as more fully defined in the hereinafter defined Bond Resolution); and

WHEREAS, the Governing Body of the City has heretofore issued or authorized the issuance of the following general obligation bonds and has pledged the Pledged Revenue to pay the principal of and interest on such bonds:

(a) General Obligation Refunding and Improvement Sales Tax Bonds, Series 2003B (the "Series 2003B Bonds"), issued in the original amount of $48,855,000; and

(b) General Obligation Sales Tax Bonds, Series 2007 (the "Series 2007 Bonds"), issued in the original amount of $40,500,000; and

(c) General Obligation Sales Tax Refunding Bonds, Series 2009A (the "Series 2009A Bonds"), issued in the original amount of $28,385,000; and

(d) General Obligation Sales Tax Refunding Bonds, Series 2010A (the "Series 2010A Bonds"), issued in the original amount of $21,420,000; and

(e) General Obligation Sales Tax Bonds, Series 2011A (the "Series 2011A Bonds"), issued in the original amount not to exceed $9,025,000; and

(f) General Obligation Sales Tax Refunding Bonds, Series 2011B (the "Series 2011B Bonds"), issued in the original amount not to exceed $16,240,000; and

(g) General Obligation Sales Tax Bonds, Series 2012D (the "Series 2012D Bonds"), issued in the original amount not to exceed $18,540,000; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Series 2007 Bonds maturing in the years 2015 through 2022 (the "Refunded Bonds") and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the principal of the Refunded Bonds; and

WHEREAS, the City is authorized by K.S.A. 10-427 *et seq*., to issue general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, the ordinances and resolutions of the City authorizing the issuance of the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012D Bonds (collectively, the "Outstanding Bond Ordinances") authorize or will authorize the issuance of additional general obligation bonds which may be on a parity with and co-equal in stature and priority to the lien of the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012D Bonds (collectively, the "Outstanding Parity Bonds") on such portion of the revenues from the sales tax, if the issuance of such refunding bonds shall result in a reduction in the debt service requirements with respect to such refunded bonds; and

WHEREAS, the Governing Body hereby finds and determines that the refunding of the Refunded Bonds by the Bonds will result in a reduction in the debt service requirements; and

WHEREAS, pursuant to Resolution No. 12-218 duly adopted on September 25, 2012, the Governing Body advertised for bids at a public sale approximately $26,600,000 principal amount of the City's General Obligation Sales Tax and Improvements Bonds, Series 2012E (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to pledge a portion of the revenues allocated to the City from the county-wide retailer's sales tax to the payment of the principal of and the interest on the Bonds on a parity with and co-equal to the pledge of such revenues to payment of the Outstanding Parity Bonds, to provide for the levy and collection of an annual tax in order to provide for the payment of any portion of the principal of and the interest on the Bonds not paid from the sales tax revenues, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Authorization and Security of the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to refund and redeem the Refunded Bonds, the Bonds in the aggregate principal amount not to exceed $26,600,000 shall be issued.

The Governing Body hereby covenants and agrees to make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable from the Pledged Revenues; and, if not so paid, from ad valorem taxes levied upon all of the taxable tangible property located within the territorial limits of the City in such amounts, if any, as are necessary to pay any portion of the principal and interest on the Bonds not paid from the Pledged Revenues. The Bonds shall be and constitute valid and legally binding general obligations of the City; and the full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Pledge of Pledged Revenues. The principal of, premium, if any, and the interest on the Bonds is secured by and payable first from a first and prior lien on and an irrevocable pledge of the Pledged Revenues, which lien shall be on a parity with and co-equal to the lien of the Outstanding Parity Bonds on the Pledged Revenues; and the City hereby irrevocably pledges the Pledged Revenues solely and only to the payment of the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds. The pledge of the Pledged Revenues shall be valid and binding from and after the effective date of this Ordinance, and such Pledged Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without the physical delivery of such Pledged

Revenues or any further action on the part of the City, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind against the City, irrespective of whether such parties have notice hereof.

The Bonds shall have no priority with respect to the payment of principal or interest over any general obligation bonds of the City hereafter issued in accordance with the provisions of this Ordinance and the Bond Resolution which are on a parity with the Bonds, nor shall any other general obligation bonds of the City heretofore or hereafter issued have priority over the payment from the Pledged Revenues of the principal of or the interest on the Bonds. The Bonds are, however, on a parity with and co-equal to the Outstanding Parity Bonds respecting payment of the principal amount thereof and the interest thereon.

Section 5. **Covenant to Collect Sales Tax.** The City hereby covenants that, to the extent of its control, it will cause the Sales Tax to be maintained and collected as provided by the Act in order to generate Pledged Revenues sufficient to pay the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds, as and when the same shall become due and payable. The City hereby further covenants that it will take no action of any kind which would in any manner impair or delay the collection of the Sales Tax or which might otherwise adversely affect the Pledged Revenues, and in the event any litigation, claim or proceeding shall be commenced in any form or tribunal under which the Sales Tax may be challenged or the pledge of the Pledged Revenues pursuant to this Ordinance or the Bond Resolution, or which in any other way may adversely affect the collection of the Pledged Revenues by the City sufficient to pay the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds, the City shall take all action necessary to contest any such litigation or proceeding to the extent the City has standing to contest such litigation or proceedings and is otherwise permitted by law to take such action.

Section 6. **Tax Covenants.** The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code; and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of

America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds; and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance, and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 7. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 8. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds, an escrow agreement with a Kansas bank with trust powers to be selected by the City, to provide for the escrow of the proceeds of the Bonds to be used to redeem the Refunded Bonds and pay interest on the Bonds through the date of redemption of the Refunded Bonds (the "Escrow Agreement"), and the Bonds. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof; and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement, the Escrow Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, including notice of redemption of the Refunded Bonds, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect

to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 9. **Effective Date.** This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper; provided; however that all references to the Series 2012D Bonds shall only become effective upon the issuance and delivery of the Series 2012D Bonds by the City.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

RESOLUTION NO. 12-225

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED OCTOBER 16, 2012

AUTHORIZING THE ISSUANCE

NOT TO EXCEED $24,500,000

GENERAL OBLIGATION REFUNDING BONDS
SERIES 2012A

DATED NOVEMBER 1, 2012

TABLE OF CONTENTS

Title		1
Recitals		1
	ARTICLE I DEFINITIONS	
Section 1.01	Definitions of Words and Terms	1
	ARTICLE II AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS	
Section 2.01	Authorization of and Security for Bonds	5
Section 2.02	Description and Details of Bonds	6
Section 2.03	Designation of Paying Agent and Bond Registrar	7
Section 2.04	Method and Place of Payment of Principal and Interest on Bonds	7
Section 2.05	Method of Execution and Authentication of Bonds	8
Section 2.06	Payment of Costs of Bonds	8
Section 2.07	Form of Bonds	8
Section 2.08	Registration, Transfer and Exchange of Bonds	9
Section 2.09	Mutilated, Lost, Stolen or Destroyed Bonds	10
Section 2.10	Surrender and Cancellation of Bonds	10
Section 2.11	Execution and Delivery of Bonds	10
Section 2.12	Official Statement	10
	ARTICLE III REDEMPTION OF BONDS	
Section 3.01	No Optional Redemption	10
Section 3.02	Sinking Fund Redemption	11

Section 3.03	Selection of Bonds to be Redeemed	11
Section 3.04	Notice of Redemption	11

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01	Creation of Funds and Accounts	12
Section 4.02	Administration of Funds and Accounts	12

ARTICLE V
APPLICATION OF BOND PROCEEDS;
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01	Application of Bond Proceeds	12
Section 5.02	Disposition of Principal and Interest Account	12
Section 5.03	Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent	12
Section 5.04	Surplus in Principal and Interest Account	13
Section 5.05	Costs of Issuance Account	13
Section 5.06	Escrow Fund; Refunding	13

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01	Deposits	13
Section 6.02	Investments	13
Section 6.03	Deposits into and Application of Moneys in Excess Earnings Account	14

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01	Levy and Collection of Annual Taxes	15
Section 7.02	Disposition of Taxes; Untimely Receipt	15

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01	Resolution Constitutes Contract; Remedies of Owners	15
Section 8.02	Rights of Owners; Limitations	16
Section 8.03	Remedies Cumulative; Delay or Omission Not Waiver	16

ARTICLE IX
AMENDMENTS

Section 9.01	Amendments	16
Section 9.02	Written Evidence of Amendments	17

ARTICLE X
DEFEASANCE

Section 10.01	Defeasance	18

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01	Tax Covenants	18
Section 11.02	Severability	19
Section 11.03	Further Authority	19
Section 11.04	Governing Law	20
Section 11.05	Effective Date	20
Signatures		
Exhibit A	Additional Terms of the Series 2012A Bonds	
Exhibit B	Final Sizing Terms of the Series 2012A Bonds	

RESOLUTION NO. 12-225

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012A, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $24,500,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount not to exceed $24,500,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 10-427 *et seq.*, as amended and supplemented, under the authority of which statutes the Bonds are issued.

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

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

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

"Bonds" shall mean the General Obligation Refunding Bonds, Series 2012A, dated November 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $24,500,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds.

"Costs of Issuance Account" shall mean the Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012A created pursuant to **Article IV** hereof.

"Costs of Issuance Deposit" shall mean the amount of proceeds of the Bonds to be deposited in the Costs of Issuance Account described on **Exhibit B** to this Resolution.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is November 1, 2012.

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

"Debt Service Fund" shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City's general obligation indebtedness.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Escrow Agreement" shall mean the Escrow Agreement dated as of November 1, 2012 between the City and the Escrow Trustee.

"Escrow Fund" shall mean the Escrow Fund created under the Escrow Agreement and held by the Escrow Trustee.

"Escrow Trustee" shall mean a Kansas bank with trust powers to be selected by the City.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

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

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

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

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

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

"Interest Payment Dates" shall be March 1 and September 1 of each year commencing September 1, 2013, and ending September 1, 2023, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

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

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

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

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean September 1 of each year, commencing September 1, 2015, and ending September 1, 2023, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit B** to this Resolution.

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

"Redemption Date" when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Resolution.

"Refunded Bonds" shall mean the Refunded Bonds as described in the recitals to the Bond Ordinance.

"Refunded Bonds Redemption Dates" shall mean the following redemption dates for each series of Refunded Bonds:

Series	**Redemption Dates**
788	9/1/14
790	9/1/14
794	9/1/15

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

"Resolution" or "Bond Resolution" shall mean this Resolution, adopted by the Governing Body of the City on October 16, 2012, prescribing the terms and details of the Bonds.

"State" shall mean the State of Kansas.

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

"Term Bonds" shall mean the Term Bonds, if any, described on **Exhibits A and B** to this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 **Authorization of and Security for Bonds**. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the

necessary funds to pay the cost of refunding the principal amount of and redemption premium, if any, on the Refunded Bonds, there shall be issued the Bonds. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon, in part, from the collection of special assessment taxes which have been levied against benefited real properties in the City, and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City, with the balance payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City.

Section 2.02 **Description and Details of Bonds**. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012A". All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule, Costs of Issuance Deposit and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution; provided the final principal amount shall not exceed $24,500,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified

securities depository to replace DTC, the City will cause replacement Bonds in the form of fully registered certificates in denominations of $5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

Section 2.03 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration

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

Section 2.08 **Registration, Transfer and Exchange of Bonds**. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 **Mutilated, Lost, Stolen or Destroyed Bonds**. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 **Surrender and Cancellation of Bonds.** Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 **Execution and Delivery of Bonds**. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 **Official Statement**. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III
REDEMPTION OF BONDS

Section 3.01 **No Optional Redemption**. The Bonds are not subject to optional redemption prior to maturity.

Section 3.02 **Sinking Fund Redemption**. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 3.03 **Selection of Bonds to be Redeemed**. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.04 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first-class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 Creation of Funds and Accounts. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012A;

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012A, to be created within the City's Debt Service Fund; and

(C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012A.

Section 4.02 Administration of Funds and Accounts. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds;

(B) To the Costs of Issuance Account, the Costs of Issuance Deposit; and

(C) The balance of the proceeds to the Escrow Fund held by the Escrow Trustee in accordance with the Escrow Agreement.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum

sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 **Surplus in Principal and Interest Account**. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 **Costs of Issuance Account**. Moneys in the Costs of Issuance shall be used solely for the purpose of paying the Costs of Issuance. All moneys remaining in the Costs of Issuance Account after the earlier of payment of all Costs of Issuance or September 1, 2013, shall be transferred to the Principal and Interest Account.

Section 5.06 **Escrow Fund; Refunding**. The Refunded Bonds are hereby authorized to be redeemed on the Refunded Bonds Redemption Dates and the Escrow Trustee is hereby authorized to provide notice of such redemption in accordance with the ordinances and resolutions of the City that authorized the issuance and prescribed the terms of the Refunded Bonds. An Escrow Fund shall be established with the Escrow Trustee under the terms of the Escrow Agreement and shall be used solely to pay the principal of and premium, if any, on the Refunded Bonds on the Refunded Bonds Redemption Dates and to pay interest on the Bonds through the Refunded Bonds Redemption Dates. Any moneys remaining in the Escrow Fund after the Refunded Bonds have been redeemed shall be transferred to the City and deposited into the Principal and Interest Account for the Bonds.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits**. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 **Investments**. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any

fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and

Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 **Rights of Owners; Limitations**. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 **Remedies Cumulative; Delay or Omission Not Waiver**. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 **Amendments**. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or

(iii) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iii) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (iv) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 **Written Evidence of Amendments**. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or Redemption Date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of

the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 **Governing Law**. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 **Effective Date**. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

(The Remainder of This Page Was Intentionally Left Blank)

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 2012A BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" means Ordinance No. _____ of the City, passed by the Governing Body on October 16, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" means _____, _____, _____, the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	Interest Rate
September 1, 2015	%
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	
September 1, 2023	

EXHIBIT B
FINAL SIZING TERMS OF THE SERIES 2012A BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Costs of Issuance Deposit" means $_____.

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, $_____, plus a premium of $_____, less a discount of $_____, plus accrued interest to the date of delivery.

["Term Bonds" shall mean the 20__ Term Bonds and the 20__ Term Bonds.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

[SERIAL BONDS]

Maturity Date	**Maturing Principal**
September 1, 2015	$
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	
September 1, 2023	

[TERM BONDS

Principal Payment Date	**Amount of Principal Payment**
September 1, 20__	$
September 1, 20__	
September 1, 20__	

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-226

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED OCTOBER 16, 2012

AUTHORIZING THE ISSUANCE

NOT TO EXCEED $3,000,000

GENERAL OBLIGATION REFUNDING BONDS
SERIES 2012B (TAXABLE UNDER FEDERAL LAW)

DATED NOVEMBER 1, 2012

TABLE OF CONTENTS

Title		1
Recitals		1
	ARTICLE I DEFINITIONS	
Section 1.01	Definitions of Words and Terms	1
	ARTICLE II AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS	
Section 2.01	Authorization of and Security for Bonds	5
Section 2.02	Description and Details of Bonds	6
Section 2.03	Designation of Paying Agent and Bond Registrar	6
Section 2.04	Method and Place of Payment of Principal and Interest on Bonds	7
Section 2.05	Method of Execution and Authentication of Bonds	8
Section 2.06	Payment of Costs of Bonds	8
Section 2.07	Form of Bonds	8
Section 2.08	Registration, Transfer and Exchange of Bonds	9
Section 2.09	Mutilated, Lost, Stolen or Destroyed Bonds	9
Section 2.10	Surrender and Cancellation of Bonds	10
Section 2.11	Execution and Delivery of Bonds	10
Section 2.12	Official Statement	10
Section 2.13	Parity Bonds	10
Section 2.14	Junior Lien Bonds	10

ARTICLE III
REDEMPTION OF BONDS

Section 3.01	No Optional Redemption	11
Section 3.02	Sinking Fund Redemption	11
Section 3.03	Selection of Bonds to be Redeemed	11
Section 3.04	Notice of Redemption	11

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01	Creation of Funds and Accounts	12
Section 4.02	Administration of Funds and Accounts	12

ARTICLE V
APPLICATION OF BOND PROCEEDS;
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01	Application of Bond Proceeds	12
Section 5.02	Disposition of Principal and Interest Account	12
Section 5.03	Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent	13
Section 5.04	Surplus in Principal and Interest Account	13
Section 5.05	Deficiency of Tax Increment Revenues	13
Section 5.06	Costs of Issuance Account	13
Section 5.07	Escrow Fund; Refunding	13

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01	Deposits	14
Section 6.02	Investments	14

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01	Levy and Collection of Annual Taxes	14

Section 7.02 Disposition of Taxes; Untimely Receipt 14

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners 14

Section 8.02 Rights of Owners; Limitations 15

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver 15

ARTICLE IX
AMENDMENTS

Section 9.01 Amendments 16

Section 9.02 Written Evidence of Amendments 16

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance 17

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Severability 17

Section 11.02 Further Authority 18

Section 11.03 Governing Law 18

Section 11.04 Effective Date 18

Signatures

Exhibit A Additional Terms of the Series 2012B Bonds
Exhibit B Final Sizing Terms of the Series 2012B Bonds

RESOLUTION NO. 12-226

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012B (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $3,000,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount not to exceed $3,000,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 10-427 *et seq.*, as amended and supplemented, under the authority of which statutes the Bonds are issued.

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

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

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

"Bonds" shall mean the General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law), dated November 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the bonds shall not exceed $3,000,000.

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds.

"Costs of Issuance Account" shall mean the Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law) created pursuant to **Article IV** hereof.

"Costs of Issuance Deposit" shall mean the amount of proceeds of the Bonds to be deposited in the Costs of Issuance Account described on **Exhibit B** to this Resolution.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is November 1, 2012.

"Debt Service Fund" shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City's general obligation indebtedness.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Escrow Agreement" shall mean the Escrow Agreement dated as of November 1, 2012 between the City and the Escrow Trustee.

"Escrow Fund" shall mean the Escrow Fund created under the Escrow Agreement and held by the Escrow Trustee.

"Escrow Trustee" shall mean a Kansas bank with trust powers to be selected by the City.

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

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

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

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

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

"Interest Payment Dates" shall be March 1 and September 1 of each year commencing September 1, 2013, and ending September 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

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

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

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

"Parity Bonds" shall mean the City's General Obligation Bonds, Series 959 (Taxable Under Federal Law), dated August 1, 2007, the City's General Obligation Bonds, Series 960, dated August 1, 2007, the City's General Obligation Bonds, Series 961 dated August 1, 2012, the City's General Obligation Refunding Bonds, Series 2012C dated November 1, 2012, and any additional bonds issued under the provisions of **Section 2.13** of this Resolution.

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean September 1 of each year, commencing September 1, 2015, and ending September 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit B** to this Resolution.

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

"Redemption Date" when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Resolution.

"Refunded Bonds" shall mean the Refunded Bonds as described in the recitals to the Bond Ordinance.

"Refunded Bonds Redemption Date" shall mean the date of redemption of the Refunded Bonds on September 1, 2014.

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

"Resolution" or "Bond Resolution" shall mean this Resolution, adopted by the Governing Body of the City on October 16, 2012, prescribing the terms and details of the Bonds.

"State" shall mean the State of Kansas.

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

"Tax Increment Fund" shall have the meaning set forth in the Bond Ordinance.

"Tax Increment Revenues" shall have the meaning set forth in the Bond Ordinance.

"Term Bonds" shall mean the Term Bonds, if any, described on **Exhibits A and B** to this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the cost of refunding the principal amount of and redemption premium, if any, on the Refunded Bonds, there shall be issued the Bonds. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from Tax Increment Revenues, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The pledge of the Tax Increment Revenues to the payment of the principal of and interest on the Bonds under the Ordinance is on a parity with the Parity Bonds. Pursuant to the Bond Ordinance, the Tax Increment Revenues and the full

faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 **Description and Details of Bonds**. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law)". All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule, Costs of Issuance Deposit and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution; provided the final principal amount shall not exceed $3,000,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 2.03 **Designation of Paying Agent and Bond Registrar**. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the

State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 **Method of Execution and Authentication of Bonds**. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 **Payment of Costs of Bonds**. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 **Form of Bonds**. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 **Registration, Transfer and Exchange of Bonds**. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 **Mutilated, Lost, Stolen or Destroyed Bonds**. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same

without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

Section 2.13 Parity Bonds. The City may issue additional bonds payable out of the Tax Increment Revenues or any part thereof which stand on a parity or equality with the Bonds provided (a) the City is not in default in the payment of the principal of or interest on the Bonds or any Parity Bonds and (b) the City obtains an opinion of Bond Counsel to the effect that the proposed Parity Bonds are validly issued under State law. The City will make equal provision for paying the principal of and interest on additional bonds issued under the conditions set forth in this Section from the Tax Increment Revenues.

Section 2.14 Junior Lien Bonds. In addition to the authority to issue Parity Bonds as set forth in **Section 2.13** of this Resolution, the City may, when permitted by State law, issue bonds which have a lien on the Tax Increment Revenues that is junior and subordinate to the lien of the Bonds and any Parity Bonds on such revenues. If at any time there are insufficient Tax Increment Revenues to pay the principal of and interest on the Bonds and any Parity Bonds when they are due, the City shall make no payments of either principal or interest from the Tax

Increment Revenue on such subordinate bonds until the Tax Increment Revenues are sufficient to pay, when due, the principal of and interest on the Bonds and any Parity Bonds.

ARTICLE III
REDEMPTION OF BONDS

Section 3.01 **No Optional Redemption**. The Bonds are not subject to optional redemption prior to maturity.

Section 3.02 **Sinking Fund Redemption**. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 3.03 **Selection of Bonds to be Redeemed**. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.04 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first-class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal

amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts**. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law); and

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law), to be created within the City's Debt Service Fund.

Section 4.02 **Administration of Funds and Accounts**. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 **Application of Bond Proceeds**. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds;

(B) To the Costs of Issuance Account, the Costs of Issuance Deposit; and

(C) The balance of the proceeds to the Escrow Fund held by the Escrow Trustee in accordance with the Escrow Agreement.

Section 5.02 **Disposition of Principal and Interest Account**. The City shall deposit from the Tax Increment Fund to the Principal and Interest Account on or before each Principal Payment Date and Interest Payment Date an amount equal to the principal and/or interest due on the Bonds on such date. All deposits from the Tax Increment Fund to the Principal and Interest Account shall be on a parity with deposits made from the Tax Increment Fund to the principal and interest accounts established for Parity Bonds. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest

Payment Date. Moneys deposited in the Principal and Interest Account from the Tax Increment Fund or other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Deficiency of Tax Increment Revenues. If at any time the Tax Increment Revenues received by the City are insufficient to make any payment on the principal of or interest on the Bonds when due and the City, as required by the Bond Ordinance, uses other moneys to make such payment or payments, the City may use subsequent Tax Increment Revenues to reimburse itself for such payments.

Section 5.06 Costs of Issuance Account. Moneys in the Costs of Issuance shall be used solely for the purpose of paying the Costs of Issuance. All moneys remaining in the Costs of Issuance Account after the earlier of payment of all Costs of Issuance or September 1, 2013, shall be transferred to the Principal and Interest Account.

Section 5.07 Escrow Fund; Refunding. The Refunded Bonds are hereby authorized to be redeemed on the Refunded Bonds Redemption Date and the Escrow Trustee is hereby authorized to provide notice of such redemption in accordance with the ordinance and resolution of the City that authorized the issuance and prescribed the terms of the Refunded Bonds. An Escrow Fund shall be established with the Escrow Trustee under the terms of the Escrow Agreement and shall be used solely to pay the principal of and premium, if any, on the Refunded Bonds on the Refunded Bonds Redemption Date and to pay interest on the Bonds through the Refunded Bonds Redemption Date. Any moneys remaining in the Escrow Fund after the Refunded Bonds have been redeemed shall be transferred to the City and deposited into the Principal and Interest Account for the Bonds.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with the State law.

Section 6.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by collecting Tax Increment Revenues as provided by law; provided, that if the amounts collected from such Tax Increment Revenues are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of Tax Increment Revenues collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The Tax Increment Revenues collected and deposited into the Tax Increment Fund shall be transferred into the Principal and Interest Account to make timely payment of the principal of and interest on then Bonds when due; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said Tax Increment Revenues.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or

Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action

or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 **Amendments**. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iii) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, is not prohibited under the provisions of applicable Federal law.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 **Written Evidence of Amendments**. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of

the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or Redemption Date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be

illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.02 **Further Authority**. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.03 **Governing Law**. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.04 **Effective Date**. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 2012B BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" means Ordinance No. _____ of the City, passed by the Governing Body on October 16, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" means _____, _____, _____, the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	Interest Rate
September 1, 2015	%
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	

EXHIBIT B
FINAL SIZING TERMS OF THE SERIES 2012B BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Costs of Issuance Deposit" means $_____.

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, $_____, plus a premium of $_____, less a discount of $_____, plus accrued interest to the date of delivery.

["Term Bonds" shall mean the 20__ Term Bonds and the 20__ Term Bonds.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

[SERIAL BONDS]

Maturity Date	**Maturing Principal**
September 1, 2015	$
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	

[TERM BONDS

Principal Payment Date	**Amount of Principal Payment**
September 1, 20__	$
September 1, 20__	
September 1, 20__	

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-227

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED OCTOBER 16, 2012

AUTHORIZING THE ISSUANCE

NOT TO EXCEED $4,850,000

GENERAL OBLIGATION REFUNDING BONDS
SERIES 2012C

DATED NOVEMBER 1, 2012

TABLE OF CONTENTS

Title		1
Recitals		1
	ARTICLE I DEFINITIONS	
Section 1.01	Definitions of Words and Terms	1
	ARTICLE II AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS	
Section 2.01	Authorization of and Security for Bonds	6
Section 2.02	Description and Details of Bonds	6
Section 2.03	Designation of Paying Agent and Bond Registrar	7
Section 2.04	Method and Place of Payment of Principal and Interest on Bonds	7
Section 2.05	Method of Execution and Authentication of Bonds	8
Section 2.06	Payment of Costs of Bonds	8
Section 2.07	Form of Bonds	9
Section 2.08	Registration, Transfer and Exchange of Bonds	9
Section 2.09	Mutilated, Lost, Stolen or Destroyed Bonds	10
Section 2.10	Surrender and Cancellation of Bonds	10
Section 2.11	Execution and Delivery of Bonds	10
Section 2.12	Official Statement	10
Section 2.13	Parity Bonds	11
Section 2.14	Junior Lien Bonds	11

ARTICLE III
REDEMPTION OF BONDS

Section 3.01	No Optional Redemption	11
Section 3.02	Sinking Fund Redemption	11
Section 3.03	Selection of Bonds to be Redeemed	11
Section 3.04	Notice of Redemption	12

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01	Creation of Funds and Accounts	12
Section 4.02	Administration of Funds and Accounts	12

ARTICLE V
APPLICATION OF BOND PROCEEDS;
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01	Application of Bond Proceeds	13
Section 5.02	Disposition of Principal and Interest Account	13
Section 5.03	Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent	13
Section 5.04	Surplus in Principal and Interest Account	13
Section 5.05	Deficiency of Tax Increment Revenues	14
Section 5.06	Costs of Issuance Account	14
Section 5.07	Escrow Fund; Refunding	14

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01	Deposits	14
Section 6.02	Investments	14
Section 6.03	Deposits into and Application of Moneys in Excess Earnings Account	15

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01	Levy and Collection of Annual Taxes	16
Section 7.02	Disposition of Taxes; Untimely Receipt	16

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01	Resolution Constitutes Contract; Remedies of Owners	16
Section 8.02	Rights of Owners; Limitations	16
Section 8.03	Remedies Cumulative; Delay or Omission Not Waiver	17

ARTICLE IX
AMENDMENTS

Section 9.01	Amendments	17
Section 9.02	Written Evidence of Amendments	18

ARTICLE X
DEFEASANCE

Section 10.01	Defeasance	19

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01	Tax Covenants	19
Section 11.02	Severability	20
Section 11.03	Further Authority	20
Section 11.04	Governing Law	21
Section 11.05	Effective Date	21
Signatures		
Exhibit A	Additional Terms of the Series 2012C Bonds	
Exhibit B	Final Sizing Terms of the Series 2012C Bonds	

RESOLUTION NO. 12-227

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012C, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $4,850,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount not to exceed $4,850,000, pledged Tax Increment Revenue as defined in the Bond Ordinance to the payment of the principal of and interest on the Bonds and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 10-427 *et seq.*, as amended and supplemented, under the authority of which statutes the Bonds are issued.

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

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

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

"Bonds" shall mean the General Obligation Refunding Bonds, Series 2012C, dated November 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $4,850,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds.

"Costs of Issuance Account" shall mean the Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012C created pursuant to **Article IV** hereof.

"Costs of Issuance Deposit" shall mean the amount of proceeds of the Bonds to be deposited in the Costs of Issuance Account described on **Exhibit B** to this Resolution.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is November 1, 2012.

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

"Debt Service Fund" shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City's general obligation indebtedness.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Escrow Agreement" shall mean the Escrow Agreement dated as of November 1, 2012 between the City and the Escrow Trustee.

"Escrow Fund" shall mean the Escrow Fund created under the Escrow Agreement and held by the Escrow Trustee.

"Escrow Trustee" shall mean a Kansas bank with trust powers to be selected by the City.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

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

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

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

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

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

"Interest Payment Dates" shall be March 1 and September 1 of each year commencing September 1, 2013, and ending September 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

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

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

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

"Original Purchaser" means the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

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

"Parity Bonds" shall mean the City's General Obligation Bonds, Series 959 (Taxable Under Federal Law), dated August 1, 2007, the City's General Obligation Bonds, Series 960, dated August 1, 2007, the City's General Obligation Bonds, Series 961 dated August 1, 2012, the City's General Obligation Refunding Bonds, Series 2012B (Taxable Under Federal Law) dated November 1, 2012, and any additional bonds issued under the provisions of **Section 2.13** of this Resolution.

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean September 1 of each year, commencing September 1, 2015, and ending September 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit B** to this Resolution.

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

"Redemption Date" when used with respect to any Bond to be redeemed shall mean the date fixed for such redemption pursuant to the terms of this Resolution.

"Refunded Bonds" shall mean the Refunded Bonds as described in the recitals to the Bond Ordinance.

"Refunded Bonds Redemption Date" shall mean the date of redemption of the Refunded Bonds on September 1, 2014.

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

"Resolution" or "Bond Resolution" shall mean this Resolution, adopted by the Governing Body of the City on October 16, 2012, prescribing the terms and details of the Bonds.

"State" shall mean the State of Kansas.

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

"Tax Increment Fund" shall have the meaning set forth in the Bond Ordinance.

"Tax Increment Revenues" shall have the meaning set forth in the Bond Ordinance.

"Term Bonds" shall mean the Term Bonds, if any, described on **Exhibits A and B** to this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the cost of refunding the principal amount of and redemption premium, if any, on the Refunded Bonds, there shall be issued the Bonds. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon, from Tax Increment Revenues, and, if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The pledge of the Tax Increment Revenues to the payment of the principal of and interest on the Bonds under the Ordinance is on a parity with the Parity Bonds. Pursuant to the Bond Ordinance, the Tax Increment Revenues and the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012C". All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule, Costs of Issuance Deposit and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution; provided the final principal amount shall not exceed $4,850,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

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

DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 2.03 **Designation of Paying Agent and Bond Registrar**. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 **Method and Place of Payment of Principal and Interest on Bonds**.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to

the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption

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

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute

Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 **Mutilated, Lost, Stolen or Destroyed Bonds**. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 **Surrender and Cancellation of Bonds.** Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 **Execution and Delivery of Bonds**. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 **Official Statement**. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the

Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

Section 2.13 **Parity Bonds**. The City may issue additional bonds payable out of the Tax Increment Revenues or any part thereof which stand on a parity or equality with the Bonds provided (a) the City is not in default in the payment of the principal of or interest on the Bonds or any Parity Bonds and (b) the City obtains an opinion of Bond Counsel to the effect that the proposed Parity Bonds are validly issued under State law. The City will make equal provision for paying the principal of and interest on additional bonds issued under the conditions set forth in this Section from the Tax Increment Revenues.

Section 2.14 **Junior Lien Bonds**. In addition to the authority to issue Parity Bonds as set forth in **Section 2.13** of this Resolution, the City may, when permitted by State law, issue bonds which have a lien on the Tax Increment Revenues that is junior and subordinate to the lien of the Bonds and any Parity Bonds on such revenues. If at any time there are insufficient Tax Increment Revenues to pay the principal of and interest on the Bonds and any Parity Bonds when they are due, the City shall make no payments of either principal or interest from the Tax Increment Revenue on such subordinate bonds until the Tax Increment Revenues are sufficient to pay, when due, the principal of and interest on the Bonds and any Parity Bonds.

ARTICLE III
REDEMPTION OF BONDS

Section 3.01 **No Optional Redemption**. The Bonds are not subject to optional redemption prior to maturity.

Section 3.02 **Sinking Fund Redemption**. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 3.03 **Selection of Bonds to be Redeemed**. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the

$5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.04 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first-class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts**. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Costs of Issuance Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012C;

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012C, to be created within the City's Debt Service Fund; and

(C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Refunding Bonds, Series 2012C.

Section 4.02 **Administration of Funds and Accounts**. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds;

(B) To the Costs of Issuance Account, the Costs of Issuance Deposit; and

(C) The balance of the proceeds to the Escrow Fund held by the Escrow Trustee in accordance with the Escrow Agreement.

Section 5.02 Disposition of Principal and Interest Account. The City shall deposit from the Tax Increment Fund to the Principal and Interest Account on or before each Principal Payment Date and Interest Payment Date an amount equal to the principal and/or interest due on the Bonds on such date. All deposits from the Tax Increment Fund to the Principal and Interest Account shall be on a parity with deposits made from the Tax Increment Fund to the principal and interest accounts established for Parity Bonds. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from the Tax Increment Fund or other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 **Deficiency of Tax Increment Revenues**. If at any time the Tax Increment Revenues received by the City are insufficient to make any payment on the principal of or interest on the Bonds when due and the City, as required by the Bond Ordinance, uses other moneys to make such payment or payments, the City may use subsequent Tax Increment Revenues to reimburse itself for such payments.

Section 5.06 **Costs of Issuance Account**. Moneys in the Costs of Issuance shall be used solely for the purpose of paying the Costs of Issuance. All moneys remaining in the Costs of Issuance Account after the earlier of payment of all Costs of Issuance or September 1, 2013, shall be transferred to the Principal and Interest Account.

Section 5.07 **Escrow Fund; Refunding**. The Refunded Bonds are hereby authorized to be redeemed on the Refunded Bonds Redemption Date and the Escrow Trustee is hereby authorized to provide notice of such redemption in accordance with the ordinance and resolution of the City that authorized the issuance and prescribed the terms of the Refunded Bonds. An Escrow Fund shall be established with the Escrow Trustee under the terms of the Escrow Agreement and shall be used solely to pay the principal of and premium, if any, on the Refunded Bonds on the Refunded Bonds Redemption Date and to pay interest on the Bonds through the Refunded Bonds Redemption Dates. Any moneys remaining in the Escrow Fund after the Refunded Bonds have been redeemed shall be transferred to the City and deposited into the Principal and Interest Account for the Bonds.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits**. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 **Investments**. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by collecting Tax Increment Revenues as provided by law; provided, that if the amounts collected from such Tax Increment Revenues are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of Tax Increment Revenues collected.

Section 7.02 Disposition of Taxes; Untimely Receipt. The Tax Increment Revenues collected and deposited into the Tax Increment Fund shall be transferred into the Principal and Interest Account to make timely payment of the principal of and interest on then Bonds when due; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said Tax Increment Revenues.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of

equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 **Remedies Cumulative; Delay or Omission Not Waiver**. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 **Amendments**. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iii) shall not become effective unless

and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (iv) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 **Written Evidence of Amendments**. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or Redemption Date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of

the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 **Governing Law**. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 **Effective Date**. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

(The Remainder of This Page Was Intentionally Left Blank)

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on October 16, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 2012C BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" means Ordinance No. _____ of the City, passed by the Governing Body on October 16, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" means _____, _____, _____, the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	Interest Rate
September 1, 2015	%
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	

EXHIBIT B
FINAL SIZING TERMS OF THE SERIES 2012C BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Costs of Issuance Deposit" means $_____.

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, $_____, plus a premium of $_____, less a discount of $_____, plus accrued interest to the date of delivery.

["Term Bonds" shall mean the 20__ Term Bonds and the 20__ Term Bonds.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

[SERIAL BONDS]

Maturity Date	**Maturing Principal**
September 1, 2015	$
September 1, 2016	
September 1, 2017	
September 1, 2018	
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	

[TERM BONDS

Principal Payment Date	**Amount of Principal Payment**
September 1, 20__	$
September 1, 20__	
September 1, 20__	

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on September 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-228

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED OCTOBER 16, 2012

AUTHORIZING THE ISSUANCE

NOT TO EXCEED $18,540,000

GENERAL OBLIGATION SALES TAX BONDS
SERIES 2012D

DATED NOVEMBER 1, 2012

4837-3968-2832.3

TABLE OF CONTENTS

		Page
Title		1
Recitals		1

ARTICLE I
DEFINITIONS

Section 1.01	Definitions of Words and Terms	1
Section 1.02	Rules of Interpretation	10
Section 1.03	The Projects	10

ARTICLE II
AUTHORIZATION OF AND SECURITY FOR THE BONDS

Section 2.01	Authorization of and Security for Bonds	10
Section 2.02	Security for the Bonds	10
Section 2.03	Pledge of Pledged Revenues	11
Section 2.04	Disposition of Pledged Revenues and Taxes; Untimely Receipt	11

ARTICLE III
DETAILS, ISSUANCE AND DELIVERY OF THE BONDS;
DISPOSITION OF BOND PROCEEDS

Section 3.01	Description and Details of Bonds	11
Section 3.02	Designation of Paying Agent and Bond Registrar	12
Section 3.03	Method and Place of Payment of Principal and Interest on the Bonds	13
Section 3.04	Method of Execution and Authentication of Bonds	13
Section 3.05	Payment of Costs of Bonds	14
Section 3.06	Form of Bonds	14
Section 3.07	Registration, Transfer and Exchange of Bonds	14
Section 3.08	Mutilated, Lost, Stolen or Destroyed Bonds	15
Section 3.09	Surrender and Cancellation of Bonds	16
Section 3.10	Execution and Delivery of the Bonds	16
Section 3.11	Application of Bond Proceeds	16
Section 3.12	Official Statement	17

ARTICLE IV
REDEMPTION OF THE BONDS

Section 4.01	Optional Redemption	17
Section 4.02	Sinking Fund Redemption	17
Section 4.03	Selection of Bonds to be Redeemed	17
Section 4.04	Notice of Redemption	18
Section 4.05	Deposit of Moneys for and Payment of Redemption Price	18
Section 4.06	Effect of Call for Redemption	18

ARTICLE V
ADDITIONAL BONDS

Section 5.01	Additional Bonds	18
Section 5.02	Subordinate Lien Bonds	21

ARTICLE VI
CREATION AND ADMINISTRATION OF FUNDS AND ACCOUNTS

Section 6.01	Confirmation of Existing and Creation of Additional Funds and Accounts	21
Section 6.02	Administration of Funds and Accounts	22

ARTICLE VII
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS;
GROSS REVENUES AND PLEDGED REVENUES

Section 7.01	Disposition of Project Fund; Construction of Projects	22
Section 7.02	Surplus in Project Fund	22
Section 7.03	Collection, Segregation and Disposition of Gross Revenues and Pledged Revenues	23
Section 7.04	Disposition of Principal and Interest Account	22
Section 7.05	Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent	23
Section 7.06	Surplus in Principal and Interest Account	24

ARTICLE VIII
DEPOSITS AND INVESTMENT OF MONEYS

Section 8.01	Deposits	24
Section 8.02	Investments	24
Section 8.03	Deposits Into and Application of Moneys in Excess Earnings Account	24

ARTICLE IX
PARTICULAR COVENANTS OF THE CITY

Section 9.01	Covenants of the City	25
Section 9.02	Financial Records and Reports; Annual Audit and Budget	25
Section 9.03	Inspection by Owners	27

ARTICLE X
DEFAULT AND REMEDIES

Section 10.01	Ordinance Constitutes Contract; Remedies of Owners	27
Section 10.02	Rights of Owners; Limitations	27
Section 10.03	Remedies Cumulative; Delay or Omission Not Waiver	28

ARTICLE XI
AMENDMENTS

Section 11.01 Amendments 28
Section 11.02 Written Evidence of Amendments 29

ARTICLE XII
DEFEASANCE

Section 12.01 Defeasance 29

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 13.01 Tax Covenants 30
Section 13.02 Severability 31
Section 13.03 Further Authority 31
Section 13.04 Governing Law 32
Section 13.05 Effective Date 32

Signatures

Exhibit A Additional Terms of the Series 2012D Bonds
Exhibit B Final Sizing Terms of the Series 2012D Bonds

Schedule I: The Projects

RESOLUTION NO. 12-228

A RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX BONDS, SERIES 2012D, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $18,540,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS WITH THE CONSTRUCTION OF ROADS, HIGHWAYS AND BRIDGES IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; PLEDGING A PORTION OF THE COUNTY RETAILERS' SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City"), has adopted the Bond Ordinance (as herein defined) authorizing the issuance of the Bonds (as herein defined); and

WHEREAS, the Bond Ordinance authorized the Governing Body of the City to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean the Constitution and Statutes of the State, including K.S.A. 10-101 *et seq.*, K.S.A. 12-187 *et seq.*, and K.S.A. 12-195b, all as amended and supplemented.

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

"Authorized Investments" shall mean, as long as the Series 2003B, Series 2007 and Series 2009A Bonds are Outstanding, any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

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

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

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

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

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

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

(2) bonds, notes or other evidences of indebtedness rated *"AA"* by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and *"Aa2"* by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

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

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

redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

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

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

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

(C) The Value of the above investments shall be determined as of the end of each month;

provided, however, when the Series 2003B, Series 2007 and Series 2009A Bonds are no longer Outstanding, "Authorized Investments" shall mean investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

"Bonds" shall mean the General Obligation Sales Tax Bonds, Series 2012D, dated November 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $18,540,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Projects.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is November 1, 2012.

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

"Debt Service Requirements" shall mean the required payments of the principal of, premium, if any, and the interest on Bonds issued in accordance with the terms and provisions of the Bond Ordinance and this Resolution.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article VI** hereof.

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

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

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

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

"Gross Revenues" shall mean the gross amount of the revenues received by the City from the Sales Tax before any payments, disbursements or expenditures are made therefrom.

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

"Interest Payment Dates" shall be April 1 and October 1 of each year commencing April 1, 2013, and ending October 1, 2027, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

"Local Sales Tax Capital Improvement Construction Fund" shall mean the Local Sales Tax Capital Improvement Construction Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of capital improvement projects authorized by the Governing Body to be paid from the Sales Tax.

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the

necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

"Outstanding Bond Ordinances" shall mean the Series 2003B Ordinance, the Series 2007 Ordinance, the Series 2009A Ordinance, the Series 2010A Ordinance, the Series 2011A Ordinance, the Series 2011B Ordinance and the Series 2012E Bond Ordinance.

"Outstanding Parity Bonds" shall mean the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012E Bonds.

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

"Parity Bond Principal and Interest Accounts" shall mean the Series 2003B Principal and Interest Account, the Series 2007 Principal and Interest Account, the Series 2009A Principal and Interest Account, the Series 2010A Principal and Interest Account, the Series 2011A Principal and Interest Account, the Series 2011B Principal and Interest Account, the Series 2012E Principal and Interest Account and the Principal and Interest Account established for the Bonds.

"Parity Bonds" shall mean any additional general obligation bonds, any revenue bonds or other obligations payable from the Pledged Revenues and issued in addition to and on a parity with the Bonds, pursuant to and in accordance with the provisions of **Article V** of this Resolution.

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

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

"Pledged Revenues" shall mean 50% of the Gross Revenues, including investment income (except investment earnings required to be paid United States Treasury to meet the rebate requirements of Section 148(f) of the Code).

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Bond and Interest Fund pursuant to **Article VI** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean October 1 of each year, commencing October 1, 2013, and ending October 1, 2027, or such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Project Costs" shall mean any and all costs and expenses incurred in connection with the construction of the Projects, including the payment and retirement of any temporary financing which may have previously been issued for any individual Project and Costs of Issuance.

"Project Fund" shall mean the Series 2012D Project Fund created by this Resolution.

"Projects" shall mean the roads, highways and bridges to be constructed in the City, the costs of which are to be paid in whole or in part from the proceeds of the Bonds, as are described on **Schedule I** hereto, as the same may be amended, revised or supplemented from time to time by and at the direction of the Governing Body.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

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

"Redemption Date" when used with respect to any Bond to be redeemed shall mean the date fixed for such redemption pursuant to the terms of this Resolution.

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

"Resolution" shall mean this Resolution adopted by the Governing Body of the City on October 16, 2012, prescribing the terms and details of the Bonds.

"Revenue Fund" shall mean the Local Sales Tax Road, Highway & Bridge Revenue Fund.

"Sales Tax" shall mean the one percent county-wide retailers' sales tax imposed by Sedgwick County, Kansas, pursuant to the authority of K.S.A. 12-187 *et seq.*, as amended and supplemented.

"Series 2003B Bonds" shall mean the City's General Obligation Refunding and Improvement Sales Tax Bonds, Series 2003B, dated November 1, 2003, originally issued in the principal amount of $48,855,000.

"Series 2003B Ordinance" shall mean the ordinance of the City authorizing the issuance of the Series 2003B Bonds.

"Series 2003B Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2003B Bonds created within the City's Bond and Interest Fund pursuant to the Series 2003B Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2003B Bonds.

"Series 2007 Bonds" shall mean the City's General Obligation Sales Tax Bonds, Series 2007, dated October 1, 2007, originally issued in the principal amount of $40,500,000.

"Series 2007 Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2007 Bonds.

"Series 2007 Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2007 Bonds created within the City's Bond and Interest Fund pursuant to the Series 2007 Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2007 Bonds.

"Series 2009A Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2009A, dated April 1, 2009, originally issued in the principal amount of $28,385,000.

"Series 2009A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2009A Bonds.

"Series 2009A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2009A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2009A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2009A Bonds.

"Series 2010A Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2010A, dated September 15, 2010, originally issued in the principal amount of $21,420,000.

"Series 2010A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2010A Bonds.

"Series 2010A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2010A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2010A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2010A Bonds.

"Series 2011A Bonds" shall mean the City's General Obligation Sales Tax Bonds, Series 2011A, dated October 1, 2011, originally issued in the principal amount of $8,755,000.

"Series 2011A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2011A Bonds.

"Series 2011A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2011A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2011A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2011A Bonds.

"Series 2011B Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2011B, dated October 1, 2011, originally issued in the principal amount of $16,240,000.

"Series 2011B Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2011B Bonds.

"Series 2011B Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2011B Bonds created within the City's Bond and Interest Fund pursuant to the Series 2011B Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2011B Bonds.

"Series 2012E Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2012E, dated November 1, 2012, originally issued in the principal amount not to exceed $26,600,000.

"Series 2012E Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2012E Bonds.

"Series 2012E Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2012E Bonds created within the City's Bond and Interest Fund pursuant to the Series 2012E Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2012E Bonds.

"State" shall mean the State of Kansas.

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

"Value" shall mean, as long as the Series 2003B, Series 2007, Series 2009A, Series 2010A, Series 2011A, and Series 2011B Bonds are Outstanding, the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

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

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

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

provided, however, when the Series 2003B, Series 2007, Series 2009A, Series 2010A, Series 2011A and Series 2011B Bonds are no longer Outstanding, "Value" shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

Section 1.02 Rules of Interpretation.

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

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

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

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

Section 1.03 The Projects. The Projects include various highway improvements in the City, which have previously been authorized and provided for by prior proceedings of the Governing Body, all or a portion of the costs of which are to be paid from the proceeds of the Bonds. The Projects are described on **Schedule I** to this Resolution which is attached hereto and made a part hereof by reference as though fully set forth herein.

ARTICLE II
AUTHORIZATION OF AND SECURITY FOR THE BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Project Costs, the Bonds shall be issued. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 2.02 Security for the Bonds. The Governing Body has covenanted and agreed in the Bond Ordinance, to make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable from the Pledged

Revenues; and if not so paid, from ad valorem taxes levied upon all of the taxable tangible property located within the territorial limits of the City in such amounts, if any, as are necessary to pay any portion of the principal and interest on the Bonds not paid from the Pledged Revenues. The Bonds shall be and constitute valid and legally binding general obligations of the City; and the full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.03 Pledge of Pledged Revenues. The principal of, premium, if any, and the interest on the Bonds is secured by and payable first from a first and prior lien on and an irrevocable pledge of the Pledged Revenues, which lien shall be on a parity with and co-equal to the lien of the Outstanding Bonds on the Pledged Revenues; and the City has in the Bond Ordinance irrevocably pledged the Pledged Revenues solely and only to the payment of the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds. The pledge of the Pledged Revenues shall be valid and binding from and after the effective date of the Bond Ordinance, and such Pledged Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without the physical delivery of such Pledged Revenues or any further action on the part of the City, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind against the City, irrespective of whether such parties have notice hereof.

The Bonds shall have no priority with respect to the payment of principal or interest over any general obligation bonds of the City hereafter issued in accordance with the provisions of the Bond Ordinance and this Resolution which are on a parity with the Bonds, nor shall any other general obligation bonds of the City heretofore or hereafter issued have priority over the payment from the Pledged Revenues of the principal of or the interest on the Bonds. The Bonds are, however, on a parity with and co-equal to the Outstanding Parity Bonds respecting payment of the principal amount thereof and the interest thereon.

Section 2.04 Disposition of Pledged Revenues and Taxes; Untimely Receipt. The proceeds derived from the Pledged Revenues and/or from the aforesaid annual ad valorem taxes shall be deposited into the Parity Bonds Principal and Interest Accounts when received; provided, if at any time the amount in the Parity Bonds Principal and Interest Accounts shall be insufficient to make the payments of the principal of and the interest on the Outstanding parity Bonds and the Bonds when required because of an untimely collection and/or receipt of the Pledged Revenues and/or said ad valorem taxes, the Director of Finance is authorized to cause to be transferred to said Principal and Interest Accounts from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of the Pledged Revenues and/or said ad valorem taxes.

ARTICLE III
DETAILS, ISSUANCE AND DELIVERY OF THE BONDS; DISPOSITION OF BOND PROCEEDS

Section 3.01 Description and Details of Bonds. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Sales Tax Bonds, Series 2012D". All of the Bonds shall

be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution provided the final principal amount shall not exceed $18,540,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 3.02 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk

are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 3.03(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 3.03(B)**.

Section 3.03 Method and Place of Payment of Principal and Interest on the Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 3.01** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 3.04 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City

Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal, or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 3.05 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 3.06 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The text of the approving legal opinion of Bond Counsel shall be included on the Bonds, together with a certificate of the City Clerk relating thereto which shall be signed by the manual or facsimile signature of the City Clerk. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds; and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 3.07 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the

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

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 3.03(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 3.08 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such

Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 3.09 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or, such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 3.10 Execution and Delivery of the Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution; and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the full Purchase Price therefor; and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

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

(A) An executed original or certified copy of the Bond Ordinance, together with an affidavit of publication thereof;

(B) An executed original or certified copy of this Resolution;

(C) An opinion of Bond Counsel to the effect that the Bonds constitute valid and legally binding general obligations of the City and that the interest on the Bonds is not includable in gross income for purposes of Federal income taxation and is exempt from Kansas income taxation, subject to such restrictions and limitations as shall be described therein; and

(D) Such other certificates, opinions, statements, receipts and documents as are required by the Act or as Bond Counsel shall reasonably require for delivery of the Bonds.

Section 3.11 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds of the Bonds shall be deposited into the Treasury of the City and credited to the various Funds and Accounts created by **Article VI** of this Resolution, as follows:

(A) to the Principal and Interest Account, the portion of the Purchase Price, if any, which represents accrued interest on the Bonds; and

(B) to the Project Fund, the balance of the Purchase Price of the Bonds.

Section 3.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE IV
REDEMPTION OF THE BONDS

Section 4.01 Optional Redemption. The Bonds maturing in the years 2013 to 2021, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing October 1, 2022, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof, in whole or in part, on and after October 1, 2021. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the "Redemption Date"). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount) of 100% of the principal amount thereof, plus accrued interest to the Redemption Date.

Section 4.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 4.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof; and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall

accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 4.04 Notice of Redemption. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first-class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 4.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall deposit with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.07** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 4.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the $5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the $5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE V
ADDITIONAL BONDS

Section 5.01 Additional Bonds. The City hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not issue any additional general obligations bonds, revenue bonds or other obligations payable from the Pledged Revenues, or any part thereof, which are superior in lien, security or otherwise to the first and prior lien of the Outstanding Parity Bonds and the Bonds on the Pledged Revenues.

The City may, however, issue additional bonds payable from the Pledged Revenues (the "Parity Bonds") for the payment of all or any portion of the costs of public facilities or improvements of the City for which it is authorized pursuant to the constitution or laws of the State to issue general obligation bonds, which shall be co-equal in stature and priority to the Outstanding Parity Bonds and the Bonds, but only if each and all of the following conditions are met:

(A) The issuance of Parity Bonds of equal stature and priority to the Outstanding Parity Bonds and the Bonds shall be permitted by State statutes; and the issuance of such Parity Bonds will not affect the exclusion of the interest on the Outstanding Parity Bonds and the Bonds from gross income for purposes of federal income taxation;

(B) The City shall not be in default in the making of any payments at the time required to be made by it into the respective funds and accounts created by the Outstanding Bond Ordinances and this Resolution and no event of default shall have occurred and be subsisting in any covenants or procedures established in the Outstanding Bond Ordinances or any other ordinance of the City authorizing indebtedness secured by the Pledged Revenues;

(C) The Principal Payment Date for the Parity Bonds shall be as specified in the ordinance of the City which authorizes the issuance of the Parity Bonds;

(D) As long as any of the Outstanding Parity Bonds remain Outstanding, the ordinance and/or resolution authorizing such Parity Bonds shall additionally contain substantially the same terms, conditions, covenants and procedures as are established in and by the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution; and

(E) The appropriate "earnings test" must be satisfied, as follows:

(1) If the Parity Bonds proposed to be issued by the City are to be issued as general obligation bonds secured by the full faith and credit of the City and by a specific pledge of the Pledged Revenues, pursuant to and for any of the purposes specified by the Act ("Parity General Obligation Bonds"), then the following specific condition must be met before the issuance of such Parity General Obligation Bonds: The Pledged Revenues generated by the Sales Tax for a 12-month period preceding the issuance of such Parity General Obligation Bonds shall be in an amount equal to at least 110% of the total combined average annual Debt Service Requirements for all ensuing years on (i) the Outstanding Parity Bonds, (ii) the Bonds, (iii) any Parity Bonds previously issued by the City pursuant to the Bond Ordinance and this Resolution, and (iv) the proposed Parity General Obligation Bonds; provided that, for the purposes of calculating the amount of such annual Pledged Revenues, that any period of twelve consecutive months out of the 18-month period next preceding the issuance of such Parity General Obligation Bonds may be used; and

further provided that the amount of such Pledged Revenues shall be certified to by a Certificate executed by both the Mayor and the Director of Finance; provided, that if prior to the date of issuance of such Parity General Obligation Bonds there has been authorized and pledged to the payment of the Bonds additional revenues from the Sales Tax in excess of those authorized and pledged as of the commencement of such 18-month period, the Pledged Revenues may be increased for such period in an amount equal to 100% of the estimated increase in Pledged Revenues which would have been realized during such period had such increase been in effect during all of said 18-month period; or

(2) If the Parity Bonds proposed to be issued by the City are to be issued as revenue bonds secured by a specific pledge of the Pledged Revenues, pursuant to and for any of the purposes specified by K.S.A. 12-195(b), but not secured by the full faith and credit of the City ("Parity Revenue Bonds"), then the following specific condition must be met before the issuance of such Parity Revenue Bonds: The Pledged Revenues generated by the Sales Tax for a 12-month period preceding the issuance of such Parity Revenue Bonds shall be in an amount equal to at least 110% of the total combined average annual Debt Service Requirements for all ensuing years on (i) the Outstanding Parity Bonds, (ii) the Bonds (iii) any Parity Bonds previously issued by the City pursuant to the Bond Ordinance and this Resolution, and (iv) the proposed Parity Revenue Bonds; provided that, for the purposes of calculating the amount of such annual Pledged Revenues, that any period of 12 consecutive months out of the 18-month period next preceding the issuance of such Parity Revenue Bonds may be used; and further provided that the amount of such Pledged Revenues shall be certified to by a Certificate executed by both the Mayor and the Director of Finance; provided, that if prior to the date of issuance of such Parity Revenue Bonds there has been authorized and pledged to the payment of the Bonds additional revenues from the Sales Tax in excess of those authorized and pledged as of the commencement of such 18-month period, the Pledged Revenues may be increased for such period in an amount equal to 100% of the estimated increase in Pledged Revenues which would have been realized during such period had such increase been in effect during all of said 18-month period.

Any Parity Bonds issued under the conditions set forth above and which are payable from the Pledged Revenues shall stand on a parity with the Outstanding Parity Bonds and the Bonds, and shall enjoy complete equality of the lien on and claim against the Pledged Revenues as the Outstanding Parity Bonds and the Bonds; and the City shall make equal provision for paying the Parity Bonds and the interest thereon out of the Pledged Revenues.

The City may issue additional bonds on a parity with and co-equal with the Outstanding Parity Bonds and the Bonds for the purpose of refunding outstanding Parity Bonds without meeting the requirement of subsection (E) above, if the issuance of such refunding bonds shall result in a reduction in the debt service requirements with respect to such refunded bonds.

Section 5.02 Subordinate Lien Bonds. Nothing contained in this Article prohibits or restricts the right of the City to issue revenue bonds payable from the Pledged Revenues for any of the purposes authorized by K.S.A. 12-195(b), and to provide that the principal of and the interest thereof shall be paid from the Pledged Revenues; provided that at the time such revenue bonds are issued, the City shall not be in default in the performance of any covenant or agreement contained in the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution; and provided further that any such revenue bonds shall be junior and subordinate to the Outstanding Parity Bonds and the Bonds, so that if at any time the City shall be in default in the payment of either the interest on or the principal of the Outstanding Parity Bonds and the Bonds, or if the City shall be in default in making any other payments required to be made by it under the provisions of the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution, it shall make no payments of either the principal of or the interest on the junior and subordinate revenue bonds until said default or defaults under the covenants, agreements and conditions contained in the Outstanding Bond Ordinances and the Bond Ordinance and this Resolution shall be cured and no longer existing on the part of the City. In the event of the issuance of any such junior and subordinate revenue bonds, the City, subject to the provisions aforesaid, may make provision for the payment of the interest on and the principal of said junior and subordinate revenue bonds out of the Pledged Revenues.

ARTICLE VI
CREATION AND ADMINISTRATION OF FUNDS AND ACCOUNTS

Section 6.01 Confirmation of Existing and Creation of Additional Funds and Accounts. The Governing Body hereby confirms the existence of the "Local Sales Tax Road, Highway and Bridge Revenue Fund" (the "Revenue Fund"), heretofore authorized and ordered to be created and established in the Treasury of the City, and covenants that such Revenue Fund shall continue to be maintained and exist separate and apart from all other funds of the City, and be governed by the Outstanding Bond Ordinances and by this Resolution until the full and final payment of the Bonds.

The Governing Body hereby directs that simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the additional following designated funds and accounts:

(A) Series 2012D Project Fund;

(B) Principal and Interest Account for General Obligation Sales Tax Bonds, Series 2012D, to be created within the City's Bond and Interest Fund; and

(C) Excess Earnings Account for General Obligation Sales Tax Bonds, Series 2012D.

The Governing Body hereby confirms the existence of certain other funds and accounts authorized and ordered to be created and established by the Outstanding Bond Ordinances for the payment and security of the Outstanding Parity Bonds in the Treasury of the City; and covenants that such funds and accounts shall continue to be maintained and exist separate and apart from all other funds of the City, and shall be governed by the Outstanding Bond Ordinances until the full and final payment of the Outstanding Parity Bonds.

Section 6.02 Administration of Funds and Accounts. The City shall maintain a practice of keeping separate and distinct funds and accounts herein referred to and as created by this Resolution for budget and accounting purposes; provided, however, such segregation of funds and accounts for such purpose shall have no effect upon the pledge and lien of the Bonds on the Pledged Revenues.

ARTICLE VII
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS; GROSS REVENUES AND PLEDGED REVENUES

Section 7.01 Disposition of Project Fund; Construction of Projects. Moneys in the Project Fund shall be used solely for the purpose of paying the Project Costs. The City covenants that in constructing the Projects it will perform all duties and obligations relative thereto as are now or may hereafter be imposed by the Act and the provisions of this Resolution.

Withdrawals from the Project Fund shall be made only for a purpose within the scope of the Projects and as payment for Project Costs; and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof. Withdrawals from the Project Fund shall be made only upon duly authorized and executed warrants which are accompanied by a statement of the Director of Finance to the effect that such payment is being made for a purpose within the scope of this Resolution.

Section 7.02 Surplus in Project Fund. Any moneys remaining in the Project Fund upon the full and final completion of the Projects and the payment of all Project Costs shall be transferred to the Principal and Interest Account and the City hereby pledges that any such moneys shall be used for the payment of the principal of and the interest on the Bonds, and the Project Fund shall thereafter be terminated. In the event proceeds of the Bonds shall remain in the Project Fund on November 1, 2015, the City shall obtain an opinion of Bond Counsel with respect to whether such account shall be required to be invested at a restricted yield, and whether any other actions may be required on the part of the City in order to continue the exclusion of the interest on the Bonds from federal income taxation.

To the extent there are no other available funds, then notwithstanding any other provision hereof, moneys held in the Project Fund shall be applied to the payment of the principal and interest on the Bonds upon the occurrence of an Event of Default hereunder relating to payment of such principal and interest requirements.

Section 7.03 Collection, Segregation and Disposition of Gross Revenues and Pledged Revenues. The City hereby covenants that immediately upon the issuance of the Bonds, and continuing so long as any of the Bonds remain Outstanding and unpaid, all of the Gross Revenues, promptly upon the receipt thereof by the City, and as frequently as received, shall be paid to and deposited as follows: (i) 50% of such Gross Revenues shall be deposited into the City's General Fund, and (ii) 50% of the Gross Revenues shall be deposited into the Revenue Fund ratified by this Resolution.

The City hereby further covenants that the Pledged Revenues deposited in the Revenue Fund as aforesaid shall be disbursed on the first day of each month (commencing the first day of the month following the issuance of the Bonds) as follows: (i) the amounts required by the Outstanding Bond Ordinances shall be transferred to the Outstanding Bond Principal and Interest Accounts; plus, (ii) an amount equal to the pro rata portion of the amount of interest which will become due on the Bonds on the next succeeding Interest Payment Date, plus an amount equal to the pro rata portion of the amount of principal that will become due on the Bonds on the next succeeding Principal Payment Date shall be transferred to and deposited in the Principal and Interest Account created by this Resolution for the payment of the Bonds, to the end that at all times 30 days prior to any Interest Payment Date and to any Principal Payment Date, or to any date of redemption, if applicable, there shall be sufficient moneys in the Principal and Interest Account to transmit the amount of maturing interest and principal on the Bonds to the Paying Agent for payment to the Owners when due; and (iii) the balance of the Pledged Revenues in the Revenue Fund, if any, shall be transferred to and deposited in the City's "Local Sales Tax Capital Improvement Construction Fund" for payment of the costs of other local road, highway and bridge projects, or otherwise as shall be determined by the Governing Body of the City.

In determining the respective monthly amounts to be so transferred to the Principal and Interest Account, moneys on hand in the Principal and Interest Account from accrued interest, investment income or other sources shall be taken into consideration and the amount of the monthly transfers thereto shall be reduced accordingly; provided, however, that when the Series 2003A Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012E Bonds are no longer Outstanding, moneys held in escrow and pledged to the payment of either the principal of or interest on the Bonds shall also be taken into consideration and the amount of the monthly transfers to the Principal and Interest Account shall be reduced accordingly.

Section 7.04 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding **Section 3.11** of this Resolution, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 7.05 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient in amount to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable; together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the

provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 7.06 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

ARTICLE VIII
DEPOSITS AND INVESTMENT OF MONEYS

Section 8.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State laws.

Section 8.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. In determining the amount held in any fund or account under the provisions of this Resolution, Authorized Investments shall be valued at their principal par value or at their then redemption value, whichever is less. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 8.03 Deposits into and Application of Moneys in the Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax

Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a "Certificate as to Arbitrage and Related Tax Matters," dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE IX
PARTICULAR COVENANTS OF THE CITY

Section 9.01 Covenants of the City. The City hereby covenants with each and all of the Owners of the Bonds that so long as any of the Bonds remain Outstanding and unpaid it will faithfully perform at all times any and all covenants, agreements, undertakings and provisions contained in this Resolution and in the Bonds.

Section 9.02 Financial Records and Reports; Annual Audit and Budget. So long as any of the Bonds remain Outstanding, the City will maintain proper books, records and accounts (entirely separate from all other books, records and accounts of the City) in which complete and correct entries will be made of all dealings and transactions of or in relation to the Sales Tax. Such books, records and accounts shall show the Gross Revenues received from the Sales Tax, and the application of the Pledged Revenues and all financial transactions in connection therewith. Said books shall be kept according to standard accounting practices as applicable to municipalities.

Quarterly comparative reports shall be made to the Governing Body relative to the Pledged Revenues; and the City will annually, at the end of each Fiscal Year, cause an audit of

the transactions related to the Gross Revenues to be made by a qualified accountant experienced in the field of municipal accounting. Said annual audit shall include:

(A) A classified statement as to the Gross Revenues received during the Fiscal Year;

(B) A balance sheet as of the end of each Fiscal Year showing the amount on hand at the end of such year in each of the Funds created by the Outstanding Bond Ordinances and by this Resolution and in each of the funds or accounts created by any ordinance authorizing the issuance of any Parity Bonds under the provisions of the Bond Ordinance and this Resolution;

(C) An income statement showing excess or deficiency of Pledged Revenues over Debt Service Requirements for such Fiscal Year;

(D) A statement listing all Bonds issued under the provisions of the Bond Ordinance and this Resolution which have matured, been called, purchased, or paid during the preceding Fiscal Year, and of all interest paid during the preceding Fiscal Year on such Bonds; and

(E) The opinion of the auditor as to whether or not the requirements of the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution and of any ordinance or resolution authorizing any Parity Bonds are being met by the Pledged Revenues.

The annual audit shall be completed as soon as practicable after the end of each Fiscal Year and a copy shall be filed in the office of the City Clerk where it shall be open to public inspection.

Prior to the commencement of each Fiscal Year, there shall be prepared and filed in the office of the City Clerk a budget setting forth the estimated receipts and expenditures from the Pledged Revenues for the next succeeding Fiscal Year. Said annual budget shall contain:

(A) An estimate of the anticipated Pledged Revenues from the Sales Tax during the next ensuing Fiscal Year;

(B) A statement as to the amount of interest that will accrue during the next Fiscal Year on all Outstanding Bonds issued under the provisions of the Bond Ordinance and this Resolution;

(C) A statement as to the principal amount of such Outstanding Bonds which will become due by their terms during the next Fiscal Year;

(D) A statement as to the total estimated expenditures to be made from the Pledged Revenues during the next Fiscal Year; and

(E) A statement as to the amounts to be deposited from the Pledged Revenues during the next Fiscal Year into any Fund and Account created by the Outstanding Bond Ordinances and by this Resolution and into each of the funds or accounts created

by any ordinance authorizing any Parity Bonds under the provisions of the Bond Ordinance and this Resolution.

Notwithstanding the foregoing, when the Series 2003B Bonds are no longer Outstanding, the preceding provisions of this **Section 9.02** shall be deleted and replaced by the following provisions:

As long as any of the Bonds remain Outstanding, the City will maintain proper books, records and accounts in which complete and correct entries will be made of all transactions relating to the funds and accounts established or ratified by this Resolution. Said books shall be kept according to standard accounting practices as applicable to municipalities.

Section 9.03 Inspection by Owners. Any Owner shall have the right at all reasonable times to inspect the books, records, accounts and data relating to the Sales Tax and the Pledged Revenues therefrom, and shall be furnished by the City with all information concerning the Sales Tax and the Pledged Revenues therefrom which an Owner may reasonably request.

ARTICLE X
DEFAULT AND REMEDIES

Section 10.01 Ordinance Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State,

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 10.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 10.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE XI
AMENDMENTS

Section 11.01 Amendments. The City may, without the consent of or notice to, the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Projects, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under

the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by an ordinance of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one-hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 11.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE XII
DEFEASANCE

Section 12.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds

shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or Redemption Date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 13.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code; and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury

regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds; and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 13.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 13.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof; and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 13.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 13.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City; provided, however, all references to the Series 2012E Bonds shall only become effective upon the issuance and delivery of the Series 2012E Bonds by the City.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal)

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

4837-3968-2832.3

EXHIBIT A

ADDITIONAL TERMS OF THE SERIES 2012D BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" shall mean Ordinance No. [ORD #] of the City, passed by the Governing Body on October 16, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" means [PURCHASER NAME], [PURCHASER CITY, STATE], the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	Interest Rate
October 1, 2013	%
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	

EXHIBIT B

FINAL SIZING TERMS OF THE SERIES 2012D BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, $_____, plus a premium of $_____, less a discount of $_____, plus accrued interest to the date of delivery.

["Term Bonds" shall mean the 20__ Term Bonds and the 20__ Term Bonds.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

[SERIAL BONDS]

Maturity Date	Maturing Principal
October 1, 2013	$
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	

[TERM BONDS

Principal Payment Date	Amount of Principal Payment
October 1, 20__	$
October 1, 20__	
October 1, 20__	

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	Principal Amount
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	Principal Amount
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	Principal Amount
20__	$
20__*	

*Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

SCHEDULE I

CITY OF WICHITA, KANSAS
LOCAL SALES TAX BONDS, SERIES 2012D

THE PROJECTS

RESOLUTION NO. 12-229

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED OCTOBER 16, 2012

AUTHORIZING THE ISSUANCE

NOT TO EXCEED $26,600,000

GENERAL OBLIGATION SALES TAX REFUNDING BONDS
SERIES 2012E

DATED NOVEMBER 1, 2012

TABLE OF CONTENTS

		Page
Title		1
Recitals		1

ARTICLE I
DEFINITIONS

Section 1.01	Definitions of Words and Terms	1
Section 1.02	Rules of Interpretation	10

ARTICLE II
AUTHORIZATION OF AND SECURITY FOR THE BONDS

Section 2.01	Authorization of and Security for Bonds	10
Section 2.02	Security for the Bonds	11
Section 2.03	Pledge of Pledged Revenues	11
Section 2.04	Disposition of Pledged Revenues and Taxes; Untimely Receipt	11

ARTICLE III
DETAILS, ISSUANCE AND DELIVERY OF THE BONDS;
DISPOSITION OF BOND PROCEEDS

Section 3.01	Description and Details of Bonds	12
Section 3.02	Designation of Paying Agent and Bond Registrar	12
Section 3.03	Method and Place of Payment of Principal and Interest on the Bonds	13
Section 3.04	Method of Execution and Authentication of Bonds	14
Section 3.05	Payment of Costs of Bonds	14
Section 3.06	Form of Bonds	14
Section 3.07	Registration, Transfer and Exchange of Bonds	15
Section 3.08	Mutilated, Lost, Stolen or Destroyed Bonds	15
Section 3.09	Surrender and Cancellation of Bonds	16
Section 3.10	Execution and Delivery of the Bonds	16
Section 3.11	Application of Bond Proceeds	16
Section 3.12	Official Statement	17

ARTICLE IV
REDEMPTION OF THE BONDS

Section 4.01	Optional Redemption	17
Section 4.02	Sinking Fund Redemption	17
Section 4.03	Selection of Bonds to be Redeemed	17
Section 4.04	Notice of Redemption	17
Section 4.05	Deposit of Moneys for and Payment of Redemption Price	18
Section 4.06	Effect of Call for Redemption	18

ARTICLE V
ADDITIONAL BONDS

Section 5.01	Additional Bonds	18
Section 5.02	Subordinate Lien Bonds	20

ARTICLE VI
CREATION AND ADMINISTRATION OF FUNDS AND ACCOUNTS

Section 6.01	Confirmation of Existing and Creation of Additional Funds and Accounts	21
Section 6.02	Administration of Funds and Accounts	22

ARTICLE VII
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS;
GROSS REVENUES AND PLEDGED REVENUES

Section 7.01	Escrow Account; Refunding	22
Section 7.02	Collection, Segregation and Disposition of Gross Revenues and Pledged Revenues	22
Section 7.03	Disposition of Principal and Interest Account	23
Section 7.04	Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent	23
Section 7.05	Surplus in Principal and Interest Account	23
Section 7.06	Costs of Issuance Account	23

ARTICLE VIII
DEPOSITS AND INVESTMENT OF MONEYS

Section 8.01	Deposits	23
Section 8.02	Investments	23
Section 8.03	Deposits into and Application of Moneys in Excess Earnings Account	24

ARTICLE IX
PARTICULAR COVENANTS OF THE CITY

Section 9.01	Covenants of the City	25
Section 9.02	Financial Records and Reports; Annual Audit and Budget	25
Section 9.03	Inspection by Owners	26

ARTICLE X
DEFAULT AND REMEDIES

Section 10.01	Ordinance Constitutes Contract; Remedies of Owners	27
Section 10.02	Rights of Owners; Limitations	27
Section 10.03	Remedies Cumulative; Delay or Omission Not Waiver	27

ARTICLE XI
AMENDMENTS

Section 11.01 Amendments 28
Section 11.02 Written Evidence of Amendments 29

ARTICLE XII
DEFEASANCE

Section 12.01 Defeasance 29

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 13.01 Tax Covenants 30
Section 13.02 Severability 30
Section 13.03 Further Authority 31
Section 13.04 Governing Law 31
Section 13.05 Effective Date 31

Signatures

Exhibit A Additional Terms of the Series 2012E Bonds
Exhibit B Final Sizing Terms of the Series 2012E Bonds

RESOLUTION NO. 12-229

A RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX REFUNDING BONDS, SERIES 2012E, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $26,600,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY THE COSTS OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION SALES TAX BONDS OF THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; PLEDGING A PORTION OF THE COUNTY RETAILERS' SALES TAX REVENUES ALLOCATED TO THE CITY FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF ANY PORTION OF THE PRINCIPAL OF AND THE INTEREST ON THE BONDS NOT PAID FROM SAID SALES TAX REVENUES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City"), has adopted the Bond Ordinance (as herein defined) authorizing the issuance of the Bonds (as herein defined); and

WHEREAS, the Bond Ordinance authorized the Governing Body of the City to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean the Constitution and Statutes of the State, including K.S.A. 10-101 *et seq.*, K.S.A. 10-427 *et seq.*, all as amended and supplemented.

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

"Authorized Investments" shall mean, as long as the Series 2003B, Series 2007 and Series 2009A Bonds are Outstanding, any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to this Resolution:

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

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

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

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

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

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

(2) bonds, notes or other evidences of indebtedness rated *"AA"* by Standard & Poor's, a Division of the McGraw-Hill Companies ("S&P") and *"Aa2"* by Moody's Investor Services ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

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

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

redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

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

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

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

(C) The Value of the above investments shall be determined as of the end of each month;

provided, however, when the Series 2003B, Series 2007 and Series 2009A Bonds are no longer Outstanding, "Authorized Investments" shall mean investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

"Bonds" shall mean the General Obligation Sales Tax Refunding Bonds, Series 2012E, dated November 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $26,600,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds.

"Costs of Issuance Account" shall mean the Costs of Issuance Account for General Obligation Sales Tax Refunding Bonds, Series 2012E, created pursuant to **Article VI** hereof.

"Costs of Issuance Deposit" shall mean the amount of proceeds of the Bonds to be deposited in the Costs of Issuance Account described on **Exhibit B** to this Resolution.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is November 1, 2012.

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

"Debt Service Requirements" shall mean the required payments of the principal of, premium, if any, and the interest on Bonds issued in accordance with the terms and provisions of the Bond Ordinance and this Resolution.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company.

"Escrow Agreement" means the Escrow Trust Agreement dated as of November 1, 2012, between the City and the Escrow Trustee.

"Escrow Fund" shall mean the Escrow Fund created under the Escrow Agreement and held by the Escrow Trustee.

"Escrow Trustee" means a Kansas bank with trust powers selected by the City, and its successors or assigns.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article VI** hereof.

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

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

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

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

"Gross Revenues" shall mean the gross amount of the revenues received by the City from the Sales Tax before any payments, disbursements or expenditures are made therefrom.

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

"Interest Payment Dates" shall be April 1 and October 1 of each year commencing April 1, 2013, and ending October 1, 2022, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

"Local Sales Tax Capital Improvement Construction Fund" shall mean the Local Sales Tax Capital Improvement Construction Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of capital improvement projects authorized by the Governing Body to be paid from the Sales Tax.

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

"Outstanding Bond Ordinances" shall mean the Series 2003B Ordinance, the Series 2007 Ordinance, the Series 2009A Ordinance, the Series 2010A Ordinance, the Series 2011A Ordinance, the Series 2011B Ordinance and the Series 2012D Ordinance.

"Outstanding Parity Bonds" shall mean the Series 2003B Bonds, the Series 2007 Bonds, the Series 2009A Bonds, the Series 2010A Bonds, the Series 2011A Bonds, the Series 2011B Bonds and the Series 2012D Bonds.

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

"Parity Bond Principal and Interest Accounts" shall mean the Series 2003B Principal and Interest Account, the Series 2007 Principal and Interest Account, the Series 2009A Principal and Interest Account, the Series 2010A Principal and Interest Account, the Series 2011A Principal and Interest Account, the Series 2011B Principal and Interest Account, the Series 2012D Principal and Interest Account and the Principal and Interest Account established for the Bonds.

"Parity Bonds" shall mean any additional general obligation bonds, any revenue bonds or other obligations payable from the Pledged Revenues and issued in addition to and on a parity with the Bonds, pursuant to and in accordance with the provisions of **Article V** of this Resolution.

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

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

"Pledged Revenues" shall mean 50% of the Gross Revenues, including investment income (except investment earnings required to be paid United States Treasury to meet the rebate requirements of Section 148(f) of the Code).

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Bond and Interest Fund pursuant to **Article VI** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean October 1 of each year, commencing October 1, 2015, and ending October 1, 2022, or such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit B** to this Resolution.

"Record Dates" shall mean the 15th day of a month next preceding an Interest Payment Date.

"Redemption Date" when used with respect to any Bond to be redeemed shall mean the date fixed for such redemption pursuant to the terms of this Resolution.

"Refunded Bonds" mean the Series 2007 Bonds maturing in the years 2015 through 2022, inclusive.

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

"Resolution" shall mean this Resolution adopted by the Governing Body of the City on October 16, 2012, prescribing the terms and details of the Bonds.

"Revenue Fund" shall mean the Local Sales Tax Road, Highway & Bridge Revenue Fund.

"Sales Tax" shall mean the one percent county-wide retailers' sales tax imposed by Sedgwick County, Kansas, pursuant to the authority of K.S.A. 12-187 *et seq.*, as amended and supplemented.

"Series 2003B Bonds" shall mean the City's General Obligation Refunding and Improvement Sales Tax Bonds, Series 2003B, dated November 1, 2003, originally issued in the principal amount of $48,855,000.

"Series 2003B Ordinance" shall mean the ordinance of the City authorizing the issuance of the Series 2003B Bonds.

"Series 2003B Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2003B Bonds created within the City's Bond and Interest Fund pursuant to the Series 2003B Ordinance, which was created and is held and administered

solely for the purpose of receiving and disbursing funds for the payment of the Series 2003B Bonds.

"Series 2007 Bonds" shall mean the City's General Obligation Sales Tax Bonds, Series 2007, dated October 1, 2007, originally issued in the principal amount of $40,500,000.

"Series 2007 Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2007 Bonds.

"Series 2007 Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2007 Bonds created within the City's Bond and Interest Fund pursuant to the Series 2007 Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2007 Bonds.

"Series 2009A Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2009A, dated April 1, 2009, originally issued in the principal amount of $28,385,000.

"Series 2009A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2009A Bonds.

"Series 2009A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2009A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2009A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2009A Bonds.

"Series 2010A Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2010A, dated September 15, 2010, originally issued in the principal amount of $21,420,000.

"Series 2010A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2010A Bonds.

"Series 2010A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2010A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2010A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2010A Bonds.

"Series 2011A Bonds" shall mean the City's General Obligation Sales Tax Bonds, Series 2011A, dated October 1, 2011, originally issued in the principal amount of $8,755,000.

"Series 2011A Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2011A Bonds.

"Series 2011A Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2011A Bonds created within the City's Bond and Interest Fund pursuant to the Series 2011A Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2011A Bonds.

"Series 2011B Bonds" shall mean the City's General Obligation Sales Tax Refunding Bonds, Series 2011B, dated October 1, 2011, originally issued in the principal amount of $16,240,000.

"Series 2011B Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2011B Bonds.

"Series 2011B Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2011B Bonds created within the City's Bond and Interest Fund pursuant to the Series 2011B Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2011B Bonds.

"Series 2012D Bonds" shall mean the City's General Obligation Sales Tax Bonds, Series 2012D, dated November 1, 2012, originally issued in the principal amount not to exceed $18,540,000.

"Series 2012D Ordinance" shall mean the ordinance and resolution of the City authorizing the issuance of the Series 2012D Bonds.

"Series 2012D Principal and Interest Account" shall mean the Principal and Interest Account for the payment of the Series 2012D Bonds created within the City's Bond and Interest Fund pursuant to the Series 2012D Ordinance, which was created and is held and administered solely for the purpose of receiving and disbursing funds for the payment of the Series 2012D Bonds.

"State" shall mean the State of Kansas.

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

"Value" shall mean, as long as the Series 2003B, Series 2007, Series 2009A, Series 2010A, Series 2011A, and Series 2011B Bonds are Outstanding, the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

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

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

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

provided, however, when the Series 2003B, Series 2007, Series 2009A, Series 2010A, Series 2011A and Series 2011B Bonds are no longer Outstanding, "Value" shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

Section 1.02 Rules of Interpretation.

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

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

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

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

ARTICLE II
AUTHORIZATION OF AND SECURITY FOR THE BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the cost of refunding the principal amount of the Refunded Bonds, the Bonds shall be issued. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 2.02 Security for the Bonds. The Governing Body has covenanted and agreed in the Bond Ordinance, to make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable from the Pledged Revenues; and if not so paid, from ad valorem taxes levied upon all of the taxable tangible property located within the territorial limits of the City in such amounts, if any, as are necessary to pay any portion of the principal and interest on the Bonds not paid from the Pledged Revenues. The Bonds shall be and constitute valid and legally binding general obligations of the City; and the full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.03 Pledge of Pledged Revenues. The principal of, premium, if any, and the interest on the Bonds is secured by and payable first from a first and prior lien on and an irrevocable pledge of the Pledged Revenues, which lien shall be on a parity with and co-equal to the lien of the Outstanding Bonds on the Pledged Revenues; and the City has in the Bond Ordinance irrevocably pledged the Pledged Revenues solely and only to the payment of the principal of, premium, if any, and the interest on the Outstanding Parity Bonds and the Bonds. The pledge of the Pledged Revenues shall be valid and binding from and after the effective date of the Bond Ordinance, and such Pledged Revenues so pledged and hereafter received by the City shall immediately be subject to the lien of such pledge without the physical delivery of such Pledged Revenues or any further action on the part of the City, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind against the City, irrespective of whether such parties have notice hereof.

The Bonds shall have no priority with respect to the payment of principal or interest over any general obligation bonds of the City hereafter issued in accordance with the provisions of the Bond Ordinance and this Resolution which are on a parity with the Bonds, nor shall any other general obligation bonds of the City heretofore or hereafter issued have priority over the payment from the Pledged Revenues of the principal of or the interest on the Bonds. The Bonds are, however, on a parity with and co-equal to the Outstanding Parity Bonds respecting payment of the principal amount thereof and the interest thereon.

Section 2.04 Disposition of Pledged Revenues and Taxes; Untimely Receipt. The proceeds derived from the Pledged Revenues and/or from the aforesaid annual ad valorem taxes shall be deposited into the Parity Bonds Principal and Interest Accounts when received; provided, if at any time the amount in the Parity Bonds Principal and Interest Accounts shall be insufficient to make the payments of the principal of and the interest on the Outstanding Parity Bonds and the Bonds when required because of an untimely collection and/or receipt of the Pledged Revenues and/or said ad valorem taxes, the Director of Finance is authorized to cause to be transferred to said Principal and Interest Accounts from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of the Pledged Revenues and/or said ad valorem taxes.

ARTICLE III
DETAILS, ISSUANCE AND DELIVERY OF THE BONDS; DISPOSITION OF BOND PROCEEDS

Section 3.01 Description and Details of Bonds. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Sales Tax Refunding Bonds, Series 2012E". All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule, Costs of Issuance Deposit and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution provided the final principal amount shall not exceed $26,600,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 3.02 Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have

the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon 15 days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 3.03(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 3.03(B).**

Section 3.03 Method and Place of Payment of Principal and Interest on the Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or the Fiscal Agent as agent for DTC); and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 3.01** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 3.04 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal, or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 3.05 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 3.06 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The text of the approving legal opinion of Bond Counsel shall be included on the Bonds, together with a certificate of the City Clerk relating thereto which shall be signed by the manual or facsimile signature of the City Clerk. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds; and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial

issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 3.07 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 3.03(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 3.08 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City,

evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 3.09 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or, such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 3.10 Execution and Delivery of the Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution; and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the full Purchase Price therefor; and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

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

(A) An executed original or certified copy of the Bond Ordinance, together with an affidavit of publication thereof;

(B) An executed original or certified copy of this Resolution;

(C) An opinion of Bond Counsel to the effect that the Bonds constitute valid and legally binding general obligations of the City and that the interest on the Bonds is not includable in gross income for purposes of Federal income taxation and is exempt from Kansas income taxation, subject to such restrictions and limitations as shall be described therein; and

(D) Such other certificates, opinions, statements, receipts and documents as are required by the Act or as Bond Counsel shall reasonably require for delivery of the Bonds.

Section 3.11 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds of the Bonds shall be deposited into the Treasury of the City and credited to the various Funds and Accounts created by **Article VI** of this Resolution, as follows:

(A) To the Costs of Issuance Account, the Costs of Issuance Deposit; and

(B) The balance of the proceeds to the Escrow Fund held by the Escrow Trustee.

Section 3.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE IV
REDEMPTION OF THE BONDS

Section 4.01 Optional Redemption. The Bonds are not subject to optional redemption prior to maturity.

Section 4.02 Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 4.03 Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 4.04 Notice of Redemption. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than

forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first-class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 4.05 Deposit of Moneys for and Payment of Redemption Price. On or prior to the Redemption Date, the City shall deposit with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.07** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 4.06 Effect of Call for Redemption. Whenever any Bond, or one or more of the $5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the $5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE V
ADDITIONAL BONDS

Section 5.01 Additional Bonds. The City hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not issue any additional general obligations bonds, revenue bonds or other obligations payable from the Pledged Revenues, or any part thereof, which are superior in lien, security or otherwise to the first and prior lien of the Outstanding Parity Bonds and the Bonds on the Pledged Revenues.

The City may, however, issue additional bonds payable from the Pledged Revenues (the "Parity Bonds") for the payment of all or any portion of the costs of public facilities or improvements of the City for which it is authorized pursuant to the constitution or laws of the State to issue general obligation bonds, which shall be co-equal in stature and priority to the

Outstanding Parity Bonds and the Bonds, but only if each and all of the following conditions are met:

(A) The issuance of Parity Bonds of equal stature and priority to the Outstanding Parity Bonds and the Bonds shall be permitted by State statutes; and the issuance of such Parity Bonds will not affect the exclusion of the interest on the Outstanding Parity Bonds and the Bonds from gross income for purposes of federal income taxation;

(B) The City shall not be in default in the making of any payments at the time required to be made by it into the respective funds and accounts created by the Outstanding Bond Ordinances and this Resolution and no event of default shall have occurred and be subsisting in any covenants or procedures established in the Outstanding Bond Ordinances or any other ordinance of the City authorizing indebtedness secured by the Pledged Revenues;

(C) The Principal Payment Date for the Parity Bonds shall be as specified in the ordinance of the City which authorizes the issuance of the Parity Bonds;

(D) As long as any of the Outstanding Parity Bonds remain Outstanding, the ordinance and/or resolution authorizing such Parity Bonds shall additionally contain substantially the same terms, conditions, covenants and procedures as are established in and by the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution; and

(E) The appropriate "earnings test" must be satisfied, as follows:

(1) If the Parity Bonds proposed to be issued by the City are to be issued as general obligation bonds secured by the full faith and credit of the City and by a specific pledge of the Pledged Revenues, pursuant to and for any of the purposes specified by the Act ("Parity General Obligation Bonds"), then the following specific condition must be met before the issuance of such Parity General Obligation Bonds: The Pledged Revenues generated by the Sales Tax for a 12-month period preceding the issuance of such Parity General Obligation Bonds shall be in an amount equal to at least 110% of the total combined average annual Debt Service Requirements for all ensuing years on (i) the Outstanding Parity Bonds, (ii) the Bonds, (iii) any Parity Bonds previously issued by the City pursuant to the Bond Ordinance and this Resolution, and (iv) the proposed Parity General Obligation Bonds; provided that, for the purposes of calculating the amount of such annual Pledged Revenues, that any period of twelve consecutive months out of the 18-month period next preceding the issuance of such Parity General Obligation Bonds may be used; and further provided that the amount of such Pledged Revenues shall be certified to by a Certificate executed by both the Mayor and the Director of Finance; provided, that if prior to the date of issuance of such Parity General Obligation Bonds there has been authorized and pledged to the

payment of the Bonds additional revenues from the Sales Tax in excess of those authorized and pledged as of the commencement of such 18-month period, the Pledged Revenues may be increased for such period in an amount equal to 100% of the estimated increase in Pledged Revenues which would have been realized during such period had such increase been in effect during all of said 18-month period; or

(2) If the Parity Bonds proposed to be issued by the City are to be issued as revenue bonds secured by a specific pledge of the Pledged Revenues, pursuant to and for any of the purposes specified by K.S.A. 12-195(b), but not secured by the full faith and credit of the City ("Parity Revenue Bonds"), then the following specific condition must be met before the issuance of such Parity Revenue Bonds: The Pledged Revenues generated by the Sales Tax for a 12-month period preceding the issuance of such Parity Revenue Bonds shall be in an amount equal to at least 110% of the total combined average annual Debt Service Requirements for all ensuing years on (i) the Outstanding Parity Bonds, (ii) the Bonds (iii) any Parity Bonds previously issued by the City pursuant to the Bond Ordinance and this Resolution, and (iv) the proposed Parity Revenue Bonds; provided that, for the purposes of calculating the amount of such annual Pledged Revenues, that any period of 12 consecutive months out of the 18-month period next preceding the issuance of such Parity Revenue Bonds may be used; and further provided that the amount of such Pledged Revenues shall be certified to by a Certificate executed by both the Mayor and the Director of Finance; provided, that if prior to the date of issuance of such Parity Revenue Bonds there has been authorized and pledged to the payment of the Bonds additional revenues from the Sales Tax in excess of those authorized and pledged as of the commencement of such 18-month period, the Pledged Revenues may be increased for such period in an amount equal to 100% of the estimated increase in Pledged Revenues which would have been realized during such period had such increase been in effect during all of said 18-month period.

Any Parity Bonds issued under the conditions set forth above and which are payable from the Pledged Revenues shall stand on a parity with the Outstanding Parity Bonds and the Bonds, and shall enjoy complete equality of the lien on and claim against the Pledged Revenues as the Outstanding Parity Bonds and the Bonds; and the City shall make equal provision for paying the Parity Bonds and the interest thereon out of the Pledged Revenues.

The City may issue additional bonds on a parity with and co-equal with the Outstanding Parity Bonds and the Bonds for the purpose of refunding outstanding Parity Bonds without meeting the requirement of subsection (E) above, if the issuance of such refunding bonds shall result in a reduction in the debt service requirements with respect to such refunded bonds.

Section 5.02 Subordinate Lien Bonds. Nothing contained in this Article prohibits or restricts the right of the City to issue revenue bonds payable from the Pledged Revenues for any of the purposes authorized by K.S.A. 12-195(b), and to provide that the principal of and the

interest thereof shall be paid from the Pledged Revenues; provided that at the time such revenue bonds are issued, the City shall not be in default in the performance of any covenant or agreement contained in the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution; and provided further that any such revenue bonds shall be junior and subordinate to the Outstanding Parity Bonds and the Bonds, so that if at any time the City shall be in default in the payment of either the interest on or the principal of the Outstanding Parity Bonds and the Bonds, or if the City shall be in default in making any other payments required to be made by it under the provisions of the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution, it shall make no payments of either the principal of or the interest on the junior and subordinate revenue bonds until said default or defaults under the covenants, agreements and conditions contained in the Outstanding Bond Ordinances and the Bond Ordinance and this Resolution shall be cured and no longer existing on the part of the City. In the event of the issuance of any such junior and subordinate revenue bonds, the City, subject to the provisions aforesaid, may make provision for the payment of the interest on and the principal of said junior and subordinate revenue bonds out of the Pledged Revenues.

ARTICLE VI
CREATION AND ADMINISTRATION OF FUNDS AND ACCOUNTS

Section 6.01 Confirmation of Existing and Creation of Additional Funds and Accounts. The Governing Body hereby confirms the existence of the "Local Sales Tax Road, Highway and Bridge Revenue Fund" (the "Revenue Fund"), heretofore authorized and ordered to be created and established in the Treasury of the City, and covenants that such Revenue Fund shall continue to be maintained and exist separate and apart from all other funds of the City, and be governed by the Outstanding Bond Ordinances and by this Resolution until the full and final payment of the Bonds.

The Governing Body hereby directs that simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the additional following designated funds and accounts:

(A) Costs of Issuance Account for General Obligation Sales Tax Refunding Bonds, Series 2012E;

(B) Principal and Interest Account for General Obligation Sales Tax Refunding Bonds, Series 2012E, to be created within the City's Bond and Interest Fund; and

(C) Excess Earnings Account for General Obligation Sales Tax Refunding Bonds, Series 2012E.

The Governing Body hereby confirms the existence of certain other funds and accounts authorized and ordered to be created and established by the Outstanding Bond Ordinances for the payment and security of the Outstanding Parity Bonds in the Treasury of the City; and covenants that such funds and accounts shall continue to be maintained and exist separate and apart from all other funds of the City, and shall be governed by the Outstanding Bond Ordinances until the full and final payment of the Outstanding Parity Bonds.

Section 6.02 Administration of Funds and Accounts. The City shall maintain a practice of keeping separate and distinct funds and accounts herein referred to and as created by this Resolution for budget and accounting purposes; provided, however, such segregation of funds and accounts for such purpose shall have no effect upon the pledge and lien of the Bonds on the Pledged Revenues.

ARTICLE VII
DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS; GROSS REVENUES AND PLEDGED REVENUES

Section 7.01 Escrow Fund; Refunding. The Refunded Bonds are hereby authorized to be redeemed on October 1, 2014. An Escrow Fund shall be established pursuant to the Escrow Agreement and shall be used solely to pay the principal of, premium, if any on the Refunded Bonds at their redemption date of October 1, 2014, and to pay interest on the Bonds through the date of redemption of the Refunded Bonds. Any moneys remaining in the Escrow Fund after the Refunded Bonds have been redeemed shall be transferred to the City and deposited into the Principal and Interest Account for the Bonds.

Section 7.02 Collection, Segregation and Disposition of Gross Revenues and Pledged Revenues. The City hereby covenants that immediately upon the issuance of the Bonds, and continuing so long as any of the Bonds remain Outstanding and unpaid, all of the Gross Revenues, promptly upon the receipt thereof by the City, and as frequently as received, shall be paid to and deposited as follows: (i) 50% of such Gross Revenues shall be deposited into the City's General Fund, and (ii) 50% of the Gross Revenues shall be deposited into the Revenue Fund ratified by this Resolution.

The City hereby further covenants that the Pledged Revenues deposited in the Revenue Fund as aforesaid shall be disbursed on the first day of each month (commencing the first day of the month following the issuance of the Bonds) as follows: (i) the amounts required by the Outstanding Bond Ordinances shall be transferred to the Outstanding Bond Principal and Interest Accounts; plus, (ii) an amount equal to the pro rata portion of the amount of interest which will become due on the Bonds on the next succeeding Interest Payment Date, plus an amount equal to the pro rata portion of the amount of principal that will become due on the Bonds on the next succeeding Principal Payment Date shall be transferred to and deposited in the Principal and Interest Account created by this Resolution for the payment of the Bonds, to the end that at all times 30 days prior to any Interest Payment Date and to any Principal Payment Date, or to any date of redemption, if applicable, there shall be sufficient moneys in the Principal and Interest Account to transmit the amount of maturing interest and principal on the Bonds to the Paying Agent for payment to the Owners when due; and (iii) the balance of the Pledged Revenues in the Revenue Fund, if any, shall be transferred to and deposited in the City's "Local Sales Tax Capital Improvement Construction Fund" for payment of the costs of other local road, highway and bridge projects, or otherwise as shall be determined by the Governing Body of the City.

In determining the respective monthly amounts to be so transferred to the Principal and Interest Account, moneys on hand in the Principal and Interest Account from accrued interest, investment income or other sources shall be taken into consideration and the amount of the monthly transfers thereto shall be reduced accordingly; provided, however, that when the

Series 2003A Bonds, the Series 2007 Bonds and the Series 2009A Bonds are no longer Outstanding, moneys held in escrow and pledged to the payment of either the principal of or interest on the Bonds shall also be taken into consideration and the amount of the monthly transfers to the Principal and Interest Account shall be reduced accordingly.

Section 7.03 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of **Section 3.11** of this Resolution, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 7.04 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient in amount to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable; together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 7.05 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 7.06 Costs of Issuance Account. Moneys in the Costs of Issuance shall be used solely for the purpose of paying the Costs of Issuance. All moneys remaining in the Costs of Issuance Account after the earlier of payment of all Costs of Issuance or April 1, 2013, shall be transferred to the Principal and Interest Account.

ARTICLE VIII
DEPOSITS AND INVESTMENT OF MONEYS

Section 8.01 Deposits. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State laws.

Section 8.02 Investments. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as

shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. In determining the amount held in any fund or account under the provisions of this Resolution, Authorized Investments shall be valued at their principal par value or at their then redemption value, whichever is less. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 8.03 Deposits into and Application of Moneys in the Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a "Certificate as

to Arbitrage and Related Tax Matters," dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE IX
PARTICULAR COVENANTS OF THE CITY

Section 9.01 Covenants of the City. The City hereby covenants with each and all of the Owners of the Bonds that so long as any of the Bonds remain Outstanding and unpaid it will faithfully perform at all times any and all covenants, agreements, undertakings and provisions contained in this Resolution and in the Bonds.

Section 9.02 Financial Records and Reports; Annual Audit and Budget. So long as any of the Bonds remain Outstanding, the City will maintain proper books, records and accounts (entirely separate from all other books, records and accounts of the City) in which complete and correct entries will be made of all dealings and transactions of or in relation to the Sales Tax. Such books, records and accounts shall show the Gross Revenues received from the Sales Tax, and the application of the Pledged Revenues and all financial transactions in connection therewith. Said books shall be kept according to standard accounting practices as applicable to municipalities.

Quarterly comparative reports shall be made to the Governing Body relative to the Pledged Revenues; and the City will annually, at the end of each Fiscal Year, cause an audit of the transactions related to the Gross Revenues to be made by a qualified accountant experienced in the field of municipal accounting. Said annual audit shall include:

(A) A classified statement as to the Gross Revenues received during the Fiscal Year;

(B) A balance sheet as of the end of each Fiscal Year showing the amount on hand at the end of such year in each of the Funds created by the Outstanding Bond Ordinances and by this Resolution and in each of the funds or accounts created by any ordinance authorizing the issuance of any Parity Bonds under the provisions of the Bond Ordinance and this Resolution;

(C) An income statement showing excess or deficiency of Pledged Revenues over Debt Service Requirements for such Fiscal Year;

(D) A statement listing all Bonds issued under the provisions of the Bond Ordinance and this Resolution which have matured, been called, purchased, or paid during the preceding Fiscal Year, and of all interest paid during the preceding Fiscal Year on such Bonds; and

(E) The opinion of the auditor as to whether or not the requirements of the Outstanding Bond Ordinances, the Bond Ordinance and this Resolution and of any ordinance or resolution authorizing any Parity Bonds are being met by the Pledged Revenues.

The annual audit shall be completed as soon as practicable after the end of each Fiscal Year and a copy shall be filed in the office of the City Clerk where it shall be open to public inspection.

Prior to the commencement of each Fiscal Year, there shall be prepared and filed in the office of the City Clerk a budget setting forth the estimated receipts and expenditures from the Pledged Revenues for the next succeeding Fiscal Year. Said annual budget shall contain:

(A) An estimate of the anticipated Pledged Revenues from the Sales Tax during the next ensuing Fiscal Year;

(B) A statement as to the amount of interest that will accrue during the next Fiscal Year on all Outstanding Bonds issued under the provisions of the Bond Ordinance and this Resolution;

(C) A statement as to the principal amount of such Outstanding Bonds which will become due by their terms during the next Fiscal Year;

(D) A statement as to the total estimated expenditures to be made from the Pledged Revenues during the next Fiscal Year; and

(E) A statement as to the amounts to be deposited from the Pledged Revenues during the next Fiscal Year into any Fund and Account created by the Outstanding Bond Ordinances and by this Resolution and into each of the funds or accounts created by any ordinance authorizing any Parity Bonds under the provisions of the Bond Ordinance and this Resolution.

Notwithstanding the foregoing, when the Series 2003B Bonds are no longer Outstanding, the preceding provisions of this **Section 9.02** shall be deleted and replaced by the following provisions:

As long as any of the Bonds remain Outstanding, the City will maintain proper books, records and accounts in which complete and correct entries will be made of all transactions relating to the funds and accounts established or ratified by this Resolution. Said books shall be kept according to standard accounting practices as applicable to municipalities.

Section 9.03 Inspection by Owners. Any Owner shall have the right at all reasonable times to inspect the books, records, accounts and data relating to the Sales Tax and the Pledged Revenues therefrom, and shall be furnished by the City with all information concerning the Sales Tax and the Pledged Revenues therefrom which an Owner may reasonably request.

ARTICLE X
DEFAULT AND REMEDIES

Section 10.01 Ordinance Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 10.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 10.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to

or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE XI
AMENDMENTS

Section 11.01 Amendments. The City may, without the consent of or notice to, the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iii) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (iv) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by an ordinance of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one-hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 11.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance resolution or of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE XII
DEFEASANCE

Section 12.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal. Premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or Redemption Date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust

for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 13.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code; and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds; and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 13.02 Severability. In case any one or more of the provisions of the Bond Ordinance or this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 13.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof; and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 13.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 13.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City; provided, however, all references to the Series 2012D Bonds shall only become effective upon the issuance and delivery of the Series 2012D Bonds by the City.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on October 16, 2012.

(Seal)

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

ADDITIONAL TERMS OF THE SERIES 2012E BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" shall mean Ordinance No. [ORD #] of the City, passed by the Governing Body on October 16, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" means [PURCHASER NAME], [PURCHASER CITY, STATE], the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	Interest Rate
October 1, 2013	%
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	

EXHIBIT B

FINAL SIZING TERMS OF THE SERIES 2012E BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Costs of Issuance Deposit" means $_____.

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, the principal amount of $_____, plus a premium of $_____, less a discount of $_____, plus accrued interest to the date of delivery.

["Term Bonds" shall mean the 20__ Term Bonds and the 20__ Term Bonds.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due on the dates and shall bear interest as the rates per annum as follows:

[SERIAL BONDS]

Maturity Date	Maturing Principal
October 1, 2013	$
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	

[TERM BONDS

Principal Payment Date	Amount of Principal Payment
October 1, 20__	$
October 1, 20__	
October 1, 20__	

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$
20__*	

*Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

Wichita, Kansas
October 8, 2012
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Joni Chamberlain, Management Analyst , Public Works Engineering in the Chair; Fanny Chan, Senior Accountant, Finance, representing the Director of Finance, Elizabeth Goltry Wadle, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, Purchasing , representing Purchasing, Jason Earl, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated, October 1, 2012, were read and on motion approved.

Bids were opened on October 5, 2012, pursuant to advertisements published on:

FIRE DEPARTMENT/TRAINING DIVISION: Water Rescue Equipment and Gear.

Defer one week

FIRE DEPARTMENT/TRAINING DIVISION: Diving Dry Suits.

Defer one week

FIRE DEPARTMENT/TRAINING DIVISION: Underwater Breathing Diving System.

Defer one week

PUBLIC WORKS AND UTILITIES DEPARTMENT/ENGINEERING AND ARCHITECTURE DIVISION: Repair/Refurbish Waterwalk Parking Deck.

Defer one week

The Purchasing Division recommended that the contracts be deferred as outlined above.

On motion the Board recommended that the contracts be deferred as outlined above.

On motion the Board of Bids adjourned.

Joni Chamberlain, Management Analyst
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

Wichita, Kansas
October 15, 2012
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Marty Strayer, Administrative Assistant , Public Works Engineering in the Chair; Fanny Chan, Senior Accountant, Finance, representing the Director of Finance, Branden Hall, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, Purchasing , representing Purchasing, Jason Earl, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated, October 8, 2012, were read and on motion approved.

Bids were opened on October 12, 2012, pursuant to advertisements published on:

Water Distribution System to serve Stoney Pointe Addition (east of Greenwich, south of 29th Street North) (448-90516/735479/470152) Does not affect existing traffic. Water Distribution System to serve Greenwich Business Center Addition (east of Greenwich, south of 29th Street North) (448-90519/735480/470153) Does not affect existing traffic. (District II)

Nowak Construction - $41,179.83 Group 1
$70,150.80 Group 2
$111,330.43 Bid Total

College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP) (north of Kellogg, east of Hillside) (468-84836b/624104/652022) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Layne Inliner LLC - $89,248.51

The Purchasing Manager recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

On motion the Board recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

FIRE DEPARTMENT/TRAINING DIVISION: Water Rescue Equipment and Gear.

K& N Motorcycles Corp -	$13,629.00	Group 1
RB&T Enterprises, Inc. -	$3,000.00	Group 2
Ozark Rescue Suppliers, Inc.-	$3,700.00	Group 3
	$17,500.00	Group 4
Ozark Rescue Suppliers, Inc.-	$7,300.00	Group 5
Marine Rescue Products, Inc.-	$1,900.00	Group 6
No Bids Received -		Group 7
Columbus Lumber -	$3,678.80	Group 8
Rescue Solutions International	$2,560.00	Group 9
Columbus Lumber -	$3,030.00	Group 10
	$808.00	Group 11
Ozark Rescue Suppliers, Inc.	$1,519.60	Group 12
Columbus Lumber -	$703.20	Group 13
RB&T Enterprises, Inc. -	$5,100.00	Group 14

FIRE DEPARTMENT/TRAINING DIVISION: Diving Dry Suits.

Dive Quarters Inc. - $8,600.00 Group 1
$28,980.00 Base Bid Group 2
$3, 440.00 Option 1
$6,580.00 Option 2
$1,100.00 Option 3
$2,740.00 Option 4
$2,060.00 Option 5

FIRE DEPARTMENT/TRAINING DIVISION: Underwater Breathing Diving System.

Interspiro Inc. - $103,327.03

POLICE DEPARTMENT: Audio/Visual Equipment and Installation.

Defer one week

PUBLIC WORKS AND UTILITIES DEPARTMENT/WATER DISTRIBUTION DIVISON: Valves, Angle and Brass Low Lead Curb Stop.

Wichita Winwater Works Company* - $61,104.50

*Estimate – Contract approved on unit cost basis; refer to attachments.

PUBLIC WORKS AND UTILITIES DEPARTMENT/ENGINEERING AND ARCHITECTURE DIVISION: Repair/Refurbish Waterwalk Parking Deck.

Bids rejected

The Purchasing Division recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

Marty Strayer, Administrative Assistant
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

EXHIBIT A

FORMAL BID REPORT

TO: Robert Layton, City Manager
DATE: October 15, 2012

ENGINEERING BIDS – GARY JANZEN, INTERIM CITY ENGINEER

October 15, 2012

Water Distribution System – Public Works & Utilities Department/Engineering Division

Nowak Construction	**Group 1 - WDS to serve Stoney Pointe Addition**	**$41,179.63**
	Group 2 - WDS to serve Greenwich Business Center Addition	**70,150.80**
	Aggregate Bid Total	**$111,330.43**

College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP) (north of Kellogg, east of Hillside) – Public Works & Utilities Department/Engineering Division

Layne Inliner, LLC **$89,248.51**

PURCHASING BIDS – MELINDA A. WALKER, PURCHASING MANAGER

October 8, 2012

Water Rescue Equipment and Gear – Fire Department/Training Division **(Defer to October 15, 2012)**
Diving Dry Suits – Fire Department/Training Division **(Defer to October 15, 2012)**
Underwater Breathing Diving System – Fire Department/Training Division **(Defer to October 15, 2012)**
Repair & Refurbish Waterwalk Parking Deck & Garage (Gander Mountain Garage) – Public Works & Utilities Department/Engineering & Architecture Division **(Defer to October 15, 2012)**

October 15, 2012

Water Rescue Equipment and Gear – Fire Department/Training Division (See Exhibit B for Itemized Pricing in the Formal Bid Report)

K & N Motorcycles Corporation	Group 1	$13,629.00
RB&T Enterprises, Inc.	Group 2	$3,000.00
Ozark Rescue Suppliers, Inc.	Group 3	$3,700.00
	Group 4	$17,500.00
	Group 5	$7,300.00
Marine Rescue Products, Inc.	Group 6	$1,900.00
	Group 7 (No Bids Received)	
Columbus Lumber	Group 8	$3,678.80
Rescue Solutions International	Group 9	$2,560.00
Columbus Lumber	Group 10	$3,030.40
	Group 11	$808.80
Ozark Rescue Suppliers, Inc.	Group 12	$1,519.60
Columbus Lumber	Group 13	$703.20
RB&T Enterprises, Inc.	Group 14	$5,100.00

Diving Dry Suits – Fire Department/Training Division (See Exhibit C for Itemized Pricing in the Formal Bid Report)

Dive Quarters, Inc.	Base Bid, Group 1	$8,600.00
	Base Bid, Group 2	$28,980.00
	Group 2, Option 1	$3,440.00
	Group 2, Option 2	$6,580.00
	Group 2, Option 3	$1,100.00
	Group 2, Option 4	$2,740.00
	Group 2, Option 5	$2,060.00

Underwater Breathing Diving System – Fire Department/Training Division
Interspiro, Inc. **(See Exhibit D for Itemized Pricing in the Formal Bid Report)** **$103,327.03**
Interview Rooms Video/Audio Installation – Police Department **(Defer to October 22, 2012)**
Valves, Angle and Brass Low Lead – Public Works & Utilities Department/Water Distribution Division (See Exhibit E for Itemized Pricing in the Formal Bid Report)
Wichita Winwater Works Company **$61,104.50**
Repair & Refurbish Waterwalk Parking Deck & Garage (Gander Mountain Garage) – Public Works & Utilities Department/Engineering & Architecture Division **(Bid Rejected)**
ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.

Melinda A. Walker

Melinda A. Walker
Purchasing Manager

WATER BID TABULATION SUMMARY

BOARD OF BIDS - October 12, 2012

RQ#240953

FB#240166		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction
Water Distribution System Stoney Pointe Addition					
448-90516 (735479)	Group 1	$41,301.00			$51,274.00
Water Distribution System Greenwich Business Center Addition					
448-90519 (735480)	Group 2	$71,582.00			78,726.00
	BID BOND				
	ADDENDA	0			
BID TOTAL		$112,883.00	0.00	0.00	130,000.00

		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Utilities Plus
Water Distribution System Stoney Pointe Addition					
448-90516 (735479)	Group 1	$41,301.00	$40,100.00	$41,179.63	
Water Distribution System Greenwich Business Center Addition					
448-90519 (735480)	Group 2	$71,582.00	$71,500.00	$70,150.80	
	BID BOND				
	ADDENDA	0			
BID TOTAL		$112,883.00	111,600.00	111,330.43	0.00

		Engineer's Construction Estimate	Wildcat Construction	WBW Contractors	Stannard Construction
Water Distribution System Stoney Pointe Addition					
448-90516 (735479)	Group 1	$41,301.00			
Water Distribution System Greenwich Business Center Addition					
448-90519 (735480)	Group 2	$71,582.00			
	BID BOND				
	ADDENDA	0			
BID TOTAL		$112,883.00	0.00	0.00	0.00

CHECKED BY: KP

REVIEWED BY: ps

SANITARY SEWER BID TABULATION SUMMARY

BOARD OF BIDS - October 12, 2012

RQ#240877

FB#240157		Engineer's Construction Estimate	Layne Inliner LLC	SAK Construction LLC	Instituform Technologies
College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP)		$113,124.00	$89,248.51	$111,191.30	$157,320.00
(north of Kellogg, east of Hillsid	BID BOND		X		X
468-84836b	ADDENDA	0			
(624104)					
		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Utilities Plus
College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP)		$113,124.00			
(north of Kellogg, east of Hillsid	BID BOND				
468-84836b	ADDENDA	0			
(624104)					
		Engineer's Construction Estimate	Wildcat Construction	WBW Contractors	Stannard Construction
College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP)		$113,124.00			
(north of Kellogg, east of Hillsid	BID BOND				
468-84836b	ADDENDA	0			
(624104)					
		Engineer's Construction Estimate			
College Hill Area Sanitary Sewer Rehabilitation, Phase A (CIPP)		$113,124.00			
(north of Kellogg, east of Hillsid	BID BOND				
468-84836b	ADDENDA	0			
(624104)					

CHECKED BY: KO

REVIEWED BY: pis

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: **FB240144** Water Rescue Equipment and Gear

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Fire Department

Return to the Bid List

Responses: 9

Vendors	Complete	Bid Total	City Comments
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00	Defer to 10-15-12 Fire Dept./Training Division
D & D EQUIPMENT & SALES	In-Complete	$0.00	
MARINE RESCUE PRODUCTS INC	Partial	$2,500.00	
RESCUE SOLUTIONS INTERNATIONAL	Partial	$2,560.00	
COLUMBUS LUMBER	Partial	$12,680.25	
K & N MOTORCYCLES CORP	Partial	$13,629.00	
W W GRAINGER INC	Partial	$24,281.95	
RB&T ENTERPRISES, INC.	Partial	$28,680.00	
OZARK RESCUE SUPPLIERS, INC.	Partial	$42,631.60	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: **FB240158** Diving Dry Suits

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Return to the Bid List

Responses: 3

Vendors	Complete	Bid Total	City Comments
DIVE QUARTERS INC.	Complete	$53,500.00	Defer to 10-15-12 Fire Dept./Training Division
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$61,776.00	
DIVING UNLIMITED INTERNATIONAL	Complete	$66,892.00	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor	Group	Line
Solicitation: FB240159	Underwater Breathing Diving System	

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Return to the Bid List

Responses: 2

Vendors	Complete	Bid Total	City Comments
INTERSPIRO INC	Complete	$103,327.03	Defer to 10-15-12 Fire Dept./Training Divison
HIGH-TECH DIVING AND SAFETY, INC.	Partial	$27,420.00	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB240149 Repair/Refurbish Waterwalk Parking Deck

Close Date/Time: 9/28/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Public Works & Utilities

Return to the Bid List

Responses: 1

Vendors	Complete	Bid Total	City Comments
MARTIN K EBY CONSTRUCTION CO INC	Complete	$389,604.00	Defer to 10-15-12 Public Works & Utilities Dept./Engineering & Architecture Division

Top of the Page

WICHITA POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB240144 Water Rescue Equipment and Gear

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Fire Department

Return to the Bid List

Responses: 9

Vendors	Complete	Bid Total	City Comments
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00	Group 7 - No Bids Received
D & D EQUIPMENT & SALES	In-Complete	$0.00	
MARINE RESCUE PRODUCTS INC	Partial	$2,500.00	Award 10-16-12 Group 6 Fire Dept/Training Division
RESCUE SOLUTIONS INTERNATIONAL	Partial	$2,560.00	Award 10-16-12 Group 9 Fire Dept/Training Division
COLUMBUS LUMBER	Partial	$12,680.25	Award 10-16-12 Groups 8,10,11,13 Fire Dept/Training Division
K & N MOTORCYCLES CORP	Partial	$13,629.00	Award 10-16-12 Group 1 Fire Dept/Training Division
W W GRAINGER INC	Partial	$24,281.95	Group 4 Does Not Meet Specifications
RB&T ENTERPRISES, INC.	Partial	$28,680.00	Award 10-16-12 Groups 2,14 Fire Dept/Training Division
OZARK RESCUE SUPPLIERS, INC.	Partial	$42,631.60	Award 10-16-12 Grops 3,4,5,12 Fire Dept/Training Division

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Registration Solicitations Document Inquiry Login Help

Bid Results

This page summarizes bids by the totals for each group listed on the solicitation.

Vendor Group Line

Solicitation: **FB240144** Water Rescue Equipment and Gear

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Fire Department

Go to: 01

Return to the Bid List

Responses: 9

Group 01

Vendors	Complete	Group Total Net Bid
K & N MOTORCYCLES CORP	Complete	$13,629.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RB&T ENTERPRISES, INC.	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
OZARK RESCUE SUPPLIERS, INC.	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 02

Vendors	Complete	Group Total Net Bid
RB&T ENTERPRISES, INC.	Complete	$3,000.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
OZARK RESCUE SUPPLIERS, INC.	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 03

Vendors	Complete	Group Total Net Bid
OZARK RESCUE SUPPLIERS, INC.	Complete	$3,700.00
RB&T ENTERPRISES, INC.	Complete	$4,000.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00

RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 04

Vendors	Complete	Group Total Net Bid
W W GRAINGER INC	Complete	$12,069.75
OZARK RESCUE SUPPLIERS, INC.	Complete	$17,500.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RB&T ENTERPRISES, INC.	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

DNMS

Top of the Page

Group 05

Vendors	Complete	Group Total Net Bid
OZARK RESCUE SUPPLIERS, INC.	Complete	$7,300.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RB&T ENTERPRISES, INC.	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 06

Vendors	Complete	Group Total Net Bid
MARINE RESCUE PRODUCTS INC	Complete	$1,900.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RB&T ENTERPRISES, INC.	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
OZARK RESCUE SUPPLIERS, INC.	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00

Top of the Page

Group 07

Vendors	Complete	Group Total Net Bid
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RB&T ENTERPRISES, INC.	In-Complete	$0.00

No Bids Received

RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
OZARK RESCUE SUPPLIERS, INC.	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 08

Vendors	Complete	Group Total Net Bid
COLUMBUS LUMBER	Complete	$3,678.80
OZARK RESCUE SUPPLIERS, INC.	Complete	$3,772.00
RB&T ENTERPRISES, INC.	Complete	$5,000.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00
W W GRAINGER INC	Partial	$4,884.20

Top of the Page

Group 09

Vendors	Complete	Group Total Net Bid
RESCUE SOLUTIONS INTERNATIONAL	Complete	$2,560.00
COLUMBUS LUMBER	Complete	$2,918.25
OZARK RESCUE SUPPLIERS, INC.	Complete	$3,030.00
RB&T ENTERPRISES, INC.	Complete	$3,100.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 10

Vendors	Complete	Group Total Net Bid
COLUMBUS LUMBER	Complete	$3,030.40
OZARK RESCUE SUPPLIERS, INC.	Complete	$3,960.00
RB&T ENTERPRISES, INC.	Complete	$4,400.00
W W GRAINGER INC	Complete	$7,328.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 11

Vendors	Complete	Group Total Net Bid
COLUMBUS LUMBER	Complete	$808.80
OZARK RESCUE SUPPLIERS, INC.	Complete	$970.00
RB&T ENTERPRISES, INC.	Complete	$1,000.00
K & N MOTORCYCLES CORP	In-Complete	$0.00

D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 12

Vendors	Complete	Group Total Net Bid
OZARK RESCUE SUPPLIERS, INC.	Complete	$1,519.60
COLUMBUS LUMBER	Complete	$1,540.80
RB&T ENTERPRISES, INC.	Complete	$2,080.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	Partial	$600.00

Top of the Page

Group 13

Vendors	Complete	Group Total Net Bid
COLUMBUS LUMBER	Complete	$703.20
OZARK RESCUE SUPPLIERS, INC.	Complete	$880.00
RB&T ENTERPRISES, INC.	Complete	$1,000.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

Group 14

Vendors	Complete	Group Total Net Bid
RB&T ENTERPRISES, INC.	Complete	$5,100.00
K & N MOTORCYCLES CORP	In-Complete	$0.00
D & D EQUIPMENT & SALES	In-Complete	$0.00
W W GRAINGER INC	In-Complete	$0.00
INDUSTRIAL UNIFORM CO LLC	In-Complete	$0.00
RESCUE SOLUTIONS INTERNATIONAL	In-Complete	$0.00
OZARK RESCUE SUPPLIERS, INC.	In-Complete	$0.00
COLUMBUS LUMBER	In-Complete	$0.00
MARINE RESCUE PRODUCTS INC	In-Complete	$0.00

Top of the Page

WICHITA
POWERED BY
COGSDALE

ep.wichita.gov

Registration Solicitations Document Inquiry Login Help

Bid Results

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor Group Line

Solicitation: FB240144 Water Rescue Equipment and Gear

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Fire Department

Go to: 001

Return to the Bid List

Responses: 9

Line 001 GROUP 1: New, Unused, Current Production Three Passenger Personal Watercraft as per specifications. 2012 Kawasaki Ultra 300X or approved equal. - 300 hp supercharged motor, four stroke, inline four cylinder - black/green or black/blue color -Minimum 495 lb load capacity -Minimum 1 year warranty -20.6 gallon fuel capacity **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
K & N MOTORCYCLES CORP	1	Each	$12,894.0000	$12,894.00	Complete	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RB&T ENTERPRISES, INC.					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
OZARK RESCUE SUPPLIERS, INC.					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 002 GROUP 1: New, Unused, Current Production Personal Watercraft Trailer as per specifications. Yacht Club Trailer WC112 or approved equal. -1,000 lb load rating -DOT Approved Lighting/Safety Chains -Tire Size: 4.80x12B -52" Between Fender -Carpeted Bunks, Spring Suspension, Universal Winch Stand w/Winch, Winch Strap With Loop, Polyester Powder Paint, Rear Tie Downs, NMMA Certified **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
K & N MOTORCYCLES CORP	1	Each	$735.0000	$735.00	Complete	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RB&T ENTERPRISES, INC.					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
OZARK RESCUE SUPPLIERS, INC.					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 003 GROUP 2: New, Unused, Current Production Inflatable Riverboat Boat as per specifications. AVON Scout 6 or approved equal. -Overall length: 12-13ft -Overall width: 6-7ft -Self-Bailing floor -Inside width: 36-40in -Lift-Bow/Stern: 25-28in -Tube Diameter: 15-29in -Weight: 50-100lb -Hull chambers/cross chambers/floors: 3/2/1 -Capacity-weight: 1700lb -Capacity-persons: 7 -Thwart diameter: 14-15in -"D" Rings: 4 -Bow/stearn lift handles: 2 -Carrying handles: 4 -Heavy-duty, recessed A-7 valves -Nylon lifting and carrying handles -Heavy-duty, rubstake -Quick attachment thwarts -2 in wide fabric seam tape -10 year fabric warranty **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RB&T ENTERPRISES, INC.	1	Each	$3,000.0000	$3,000.00	Complete	NRS Otter Self-bailing: yes Length: 13' Width: 6'2" Weight: 104 lbs. Frame Width: 60" Max Frame Length: 72" Tube Diameter: 18" Thwart Diameter: 11.5" Center Compartment: 37"W x 44"L Kick\Rocker (Bow\Stern): 28" Number of Air Chambers: 6 Valve Type: Leafield C-7 & A6 Pressure Relief Weight/Denier of Tube Fabric: 41/1100 Weight/Denier of Floor Fabric: 41/1100 Number of D-Rings: 12 Number of Handles: 4 Repair Kit: Yes Warranty: 5 Year Retail, 3 Year Commercial Self-bailing: yes Length: 13' Width: 6'2" Weight: 104 lbs. Frame Width: 60" Max Frame Length: 72" Tube Diameter: 18" Thwart Diameter: 11.5" Center Compartment: 37"W x 44"L Kick\Rocker (Bow\Stern): 28" Number of Air Chambers: 6 Valve Type: Leafield C-7 & A6 Pressure Relief Weight/Denier of Tube Fabric: 41/1100 Weight/Denier of Floor Fabric: 41/1100 Number of D-Rings: 12 Number of Handles: 4 Repair Kit: Yes Warranty: 5 Year Retail, 3 Year Commercial If item is in stock lead day will be less 30 days Accessories needed: Paddles (1) guide $60.00 (4) standard $25.00 each Pumps (1) electric $145.00 (1) manual $195.00
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
OZARK RESCUE SUPPLIERS, INC.					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 004 GROUP 3: New, Unused, Current Production Non-Motorized Rapid Deployment Craft (RDC) with accessories and repair kit. Oceanid Rapid Deployment Craft or approved equal. DESCRIPTION: -Length: 15'4" -Width: 48in -Tube diameter: 12in -Floor length: 8ft -Access holes: 22 x 40in -Weight: 50lb -No. of air chambers: 3 -Buoyancy: >2,000 lbs -Fabric: 35oz. PU/PVC -Warranty: 5 years -Easily stored in a 2' Carrying Bag -2 Entry/Carrying Points -Carrying bag -Floor top carpet -2 paddles -Paddle bag -Tow strap assembly -Air fill mainifold -Repair kit **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments

OZARK RESCUE SUPPLIERS, INC.	1	Each	$3,700.0000	$3,700.00	Complete	
RB&T ENTERPRISES, INC.	1	Each	$4,000.0000	$4,000.00	Complete	If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					**No Bid.**	
D & D EQUIPMENT & SALES					**No Bid.**	
W W GRAINGER INC					**No Bid.**	
INDUSTRIAL UNIFORM CO LLC					**No Bid.**	
RESCUE SOLUTIONS INTERNATIONAL					**No Bid.**	
COLUMBUS LUMBER					**No Bid.**	
MARINE RESCUE PRODUCTS INC					**No Bid.**	

Top of the Page

Line 005 GROUP 4: New, Unused, Current Production Twelve Person Capacity Inflatable Rescue Boat with Rigid Floorboard and Accessories as per specifications. Zodiac Mark IV Heavy Duty or approved equal. Dimensions: -Overall length: 17' 5" -Inside length: 12' 2" - Overall width: 7' -Inside width: 3' 5" -Weight empty: 331 lbs -Buoyancy tube diameter:1' 10" Safety Inflation: - Number of airtight compartments on main buoyancy tube: 5 - Intercommunicating, inflation valves: 4 - Inflatable keel: 1 - Lower tubes: 2 - Design category (EC 94/25): C -Engine Power: - Shaft length: 20" - Recommended power: 60 hp - Maximum power: 80 hp - Maximum engine weight: 308 lbs Fabric: - Buoyancy tubes: black, 1670 dtx polyester, hypalon neoprene - Speed tubes: black, 940 dtx polyamid, hypalon neoprene - Bottom: black, 940 dtx polyamid, hypalon neoprene - Keel: black, 940 dtx polyamid, hypalon neoprene Transform Marine Plywood: - Self-bailers: 4 - Aluminum engine mounting plate: 1 - Engine transom pad (marine plywood): 1 - Transom triangular deflector: 2 - Transom bottom stainless steel protection shoe: 1 Valves: - Buoyancy tube intercommunication / inflation valves: 4 - Keel inflation valve (delrin): 1 - Inflation valves on hoses to speed tubes (delrin): 2 Reinforcements: - All around rubbing strake, flat profile, black: 1 - Large transom ovoid reinforcement: 1670 dtx (PY) - Rubbing strake bow triangular profile: 1 - Rubbing strake underneath lower tubes: 1 + 1 Handling: - Lateral large lifting D rings (stainless steel w/black coating): 2 - Bow lifting rings (stainless steel folding padeyes on thrustboard): 2 - Aft lifting rings (stainless steel u-bolts on transom): 2 - Bow handle (plated brass) with black coating: 1 - Exterior lifeline: all around Towing: - Aft towing rings, (stainless steel u bolts on transom): 2 - Bow large towing D-ring on tube (stainless steel blk coatg): 2 Accessories: - Foot bellows + hose: 2 - Repair kit with pressure indicator: 1 - Paddles (aluminum shaft, plastic blade) with brackets: 2 - Floorboard bag: 1 - Boat bag: 1 **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
W W GRAINGER INC	1	Each	$7,822.6500	$7,822.65	Complete	Submitting bid for alternate boat. FSI North America. FSI Transom Style Rescue Boat. Item # F-XZA-550AL Specifications meet or exceed what is listed. Specifications have been emailed to Lexie Karas.
OZARK RESCUE SUPPLIERS, INC.	1	Each	$15,200.0000	$15,200.00	Complete	
K & N MOTORCYCLES CORP					**No Bid.**	
D & D EQUIPMENT & SALES					**No Bid.**	
INDUSTRIAL UNIFORM CO LLC					**No Bid.**	
RB&T ENTERPRISES, INC.					**No Bid.**	
RESCUE SOLUTIONS INTERNATIONAL					**No Bid.**	
COLUMBUS LUMBER					**No Bid.**	
MARINE RESCUE PRODUCTS INC					**No Bid.**	

Top of the Page

Line 006 GROUP 4: New, Unused, Current Production Single Axle Inflatable Boat All Aluminum Bunk Trailer as per specifications. Trailex UT-850MIIIWT or approved equal. -Fully Assembled -Completely Adjustable -Large Adjustable Padded Bow Stop -96" Padded Bunks - Outboard Engine Fully Supported on the Transom -Lightweight Aluminum -850# Capacity -14'2" x 89" (l x w) -Tires: 16" High -Safety Chain -High Speed Demountable Galvanized Wheels & Tires -Winch w/Strap & Hook -Electrical: Flat 4 Pront -Submersible Taillights -2" Coupler - Minimum 1 Year Warranty **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments

OZARK RESCUE SUPPLIERS, INC.	1	Each	$2,300.0000	$2,300.00	Complete	
W W GRAINGER INC	1	Each	$4,247.1000	$4,247.10	Complete	Submitting bid for alternate trailer. FSI North America trailer. Item # F-SUT-8501 Specifications meet or exceed requirements listed. Specifications have been emailed to Lexie Karas.
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RB&T ENTERPRISES, INC.					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 007 GROUP 5: Deliver and Install New, Unused, Current Production Outboard Motor for 17' Heavy Duty Inflatable Rescue Boat as per specifications. 60 hp Mercury Outboard Motor or approved equal. Description: -60 HP -Electric start -Tiller steering with fuel tank -Fuel line & propeller -4-stroke -20" shaft -Vendor will be required to install motor onto Zodiac Mark IV HD or approved equal. Price shall include labor, material and equipment for installion. **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
OZARK RESCUE SUPPLIERS, INC.	1	Each	$7,300.0000	$7,300.00	Complete	
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RB&T ENTERPRISES, INC.					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 008 GROUP 6: Oversized Rescue Board Designed for Attachment to Personal Watercraft as per specifications. High Surf Accessories Cutter Rescue Board or approved equal. -Dimensions: 5"x38"x74" -Molded Nose Cone of 350 gauge HMWPP Plastic Covering Abrasion Areas -Decking Designed for Traction & Comfort -8 lb/cubic inch Polypropylene Rail Material -Center Attachment Point Rigging -Side Stabilizer Points -Deck Bungee Cord **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
MARINE RESCUE PRODUCTS INC	1	Each	$1,900.0000	$1,900.00	Complete	Recommend attachment kit- $150
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RB&T ENTERPRISES, INC.					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
OZARK RESCUE SUPPLIERS,						

INC.				No Bid.		
COLUMBUS LUMBER				No Bid.		

Top of the Page

Line 009 GROUP 7: New, Unused, Current Production Dive Propulsion Vehicle as per specifications. Torpedo 3500 Dive Propulsion Vehicle or approved equal. DESCRIPTION: -Width: 12in -Diameter: 10in -Height: 35in -Depth rating: 170ft -Weight without battery: 24lb -Weight with battery: 50lb -Buoyancy: negative (2.5lbs) -Battery Time: 45 min -Speed: 3.5mph **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
K & N MOTORCYCLES CORP				No Bid.		
D & D EQUIPMENT & SALES				No Bid.		
W W GRAINGER INC				No Bid.		
INDUSTRIAL UNIFORM CO LLC				No Bid.		
RB&T ENTERPRISES, INC.				No Bid.		
RESCUE SOLUTIONS INTERNATIONAL				No Bid.		
OZARK RESCUE SUPPLIERS, INC.				No Bid.		
COLUMBUS LUMBER				No Bid.		
MARINE RESCUE PRODUCTS INC				No Bid.		

Top of the Page

Line 010 GROUP 8: Type V (Wearable Special Use) Personal Flotation Device with Rescue System as per specifications. Extrasport Swiftwater Fury Life Vest or approved equal. -Type V UL/USCG Approved for Rescue Use, High Profile -Design Flotation: 22.0 lbs. -Entry System: Front zipper and dual buckle -Pockets: 2 Zippered Cordura® / Mesh Pocket -Lash Tabs: 3, all on the front -Adjustment System: 4 Adjustment Points + Rescue Belt -Fabric: 500 x 200 Denier Cordura® or other commercial grade nylon fabric -PVC free Gaia foam or other buoyant foam -Loop strip on shoulders to attach the hook side of reflective tape -Quick release rescue belt -Comes with Nexus whistle inside right chest pocket -2 Knife Attachment Brackets -Available Sizing: - Size S - Chest Size 37" - 39" - Size M - Chest Size 40" - 42" - Size L - Chest Size 43" - 45" - Size XL - Chest Size 46" - 48" **Colors and Sizes to be Determined Upon Order Placement** **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	20	Each	$164.2500	$3,285.00	Complete	
OZARK RESCUE SUPPLIERS, INC.	20	Each	$165.0000	$3,300.00	Complete	
RB&T ENTERPRISES, INC.	20	Each	$225.0000	$4,500.00	Complete	NRS RAPID RESCUER $199.00 ea Type & Profile: V, high profile Design Flotation: 22 lbs Entry System: Front zip Pockets: 2 Lash Tabs: 3 Adjustment System: 8 adjustment points Fabric: 500-denier CorduraÂ® Reflective tape Quick release rescue harness Strobe holder Tether attachment point Safety light stick holder Webbing loops for leg straps (sold separately) Universal Plus fit 30" - 58" chest If item is in stock lead day will be less 30 days
W W GRAINGER INC	20	Each	$244.2100	$4,884.20	Complete	Alternate supplier listed. Mustang Survival Water Rescue Vest item # MRV100. Meets or exceeds all requirements. All specifications have been emailed to Lexie Karas.
K & N MOTORCYCLES CORP				No Bid.		
D & D EQUIPMENT & SALES				No Bid.		
INDUSTRIAL UNIFORM CO LLC				No Bid.		
RESCUE SOLUTIONS				No Bid.		

INTERNATIONAL

MARINE RESCUE PRODUCTS INC — **No Bid.**

Top of the Page

Line 011 GROUP 8: Short Tow Tether with Carabiner and O-Ring which can be integrated into the Type V PFD Rescue Belt System as per specifications. NRS Short Tow Tether (19") or approved equal. Description: -19" Tether with Built In Bungee, Stretches to 33" in length - Stainless O-ring includes a hook patch of "hook and loop" material that facilitates centering of the O-ring on vests that have the loop material sewn on in the back. -Hook patch on the carabiner end -Omega Five-0 Bent Gate Carabiner **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	20	Each	$19.6900	$393.80	Complete	
OZARK RESCUE SUPPLIERS, INC.	20	Each	$23.6000	$472.00	Complete	
RB&T ENTERPRISES, INC.	20	Each	$25.0000	$500.00	Complete	If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					**No Bid.**	
D & D EQUIPMENT & SALES					**No Bid.**	
W W GRAINGER INC					**No Bid.**	
INDUSTRIAL UNIFORM CO LLC					**No Bid.**	
RESCUE SOLUTIONS INTERNATIONAL					**No Bid.**	
MARINE RESCUE PRODUCTS INC					**No Bid.**	

Top of the Page

Line 012 GROUP 9: Rescue Line Deployment Tactical Kit with Accessories as per specifications. Kit 412 - ResQmax Swift Water/Messenger Line Kit or approved equal. Description 1 EA of the following items to be included in kit: -Part # 500 - ResQmax Launcher - Red, -Part # 301-S - Streamline Sling Projectile w/ 4 Spare Burst Capsules -Part # 712 - CO^2 and Bobbins - Pack of 5 each -Part # 300-S - Streamline Projectile (w/ 2 Spare Covers) - 3000psi -Part # 806 - 2200lb-Test 8mm Polyspectra Line (300ft/92m) with Large Line Container -Part # 805 - 500lb-Test 3mm Dacron Line (500ft/152m) with Compact Line Container -Part # 60402-S - Streamline Nozzle Protector - 5 pk -Part # 714 - O-ring Kit - 10 pk. (Various) -Part # 715 - Corrosion Block -Part # 720 - ResQmax Operations Manual -Part # 725 - ResQmax Training CD -Part # (911-S, 912-S or 913-S) - Streamline Filler Hose (choose:SCBA, SCUBA or DIN) -Part # 907 - Cordura Kit Carry Bag - Red **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RESCUE SOLUTIONS INTERNATIONAL	1	Each	$2,560.0000	$2,560.00	Complete	
COLUMBUS LUMBER	1	Each	$2,918.2500	$2,918.25	Complete	
OZARK RESCUE SUPPLIERS, INC.	1	Each	$3,030.0000	$3,030.00	Complete	
RB&T ENTERPRISES, INC.	1	Each	$3,100.0000	$3,100.00	Complete	RESQMAX SWIFTWATER / MESSENGER LINE THROWER If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					**No Bid.**	
D & D EQUIPMENT & SALES					**No Bid.**	
W W GRAINGER INC					**No Bid.**	
INDUSTRIAL UNIFORM CO LLC					**No Bid.**	
MARINE RESCUE PRODUCTS INC					**No Bid.**	

Top of the Page

Line 013 GROUP 10: Ice Rescue Suit as per specifications. Stearns Ice Rescue Suit (1 595) or approved equal. Description: - Construction: One-piece 100% closed cell neoprene (5mm) - Large ice pick pockets - Wrist pocket to hold ice picks - Off-set zipper for better face seal (with flap) - Reinforced knees & elbows - Integrated chest harness w/stainless steel D rings front & back - SOLAS-grade reflective panels on front and back - Attached gloves - Thick soled boot with tread - Storage Bag - Color: international orange -Provide pricing based on Small or Universal Size. Award will be based on the standard sizes (Small & Universal). Provide price for Oversized in Comments box online or on paper bid form. **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be

emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	8	Each	$378.8000	$3,030.40	Complete	
OZARK RESCUE SUPPLIERS, INC.	8	Each	$495.0000	$3,960.00	Complete	
RB&T ENTERPRISES, INC.	8	Each	$550.0000	$4,400.00	Complete	Oversized $365.00 If item is in stock lead day will be less 30 days
W W GRAINGER INC	8	Each	$916.0000	$7,328.00	Complete	Alternate product listed. Mustang Survival Ice Commander Rescue Suit. Item # IC900. Meets or exceeds all specifications. All specifications have been emailed to Lexie Karas.
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 014 GROUP 11: Cascade Swiftwater Helmets or approved equal. Provide pricing for sizes M, L & XL. Colors and sizes to be determined. Description: -Ergonomic Fit -Foam Padding -Drainage Ports -Neck-strap -Lifetime guarantee -Weight: 18 oz -Sizes 21.5" - 24.75" M, L, XL **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	20	Each	$40.4400	$808.80	Complete	
OZARK RESCUE SUPPLIERS, INC.	20	Each	$48.5000	$970.00	Complete	
RB&T ENTERPRISES, INC.	20	Each	$50.0000	$1,000.00	Complete	NRS KAOS Helmet FULL CUT or SIDE CUT same price Material: Shell: ABS plastic Liner: Dual-density EVA foam Quick-adjust harness 8 top ventilation ports 3 ventilation ports over the ear on each side Meets CE EN 1385 safety standards If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 015 GROUP 12: US Divers Shredder SAR Swim Fins or approved equal. Description: -Length 16.5" -Blade Width 10" -Weight: 3 lbs -Adjustable Padded Heel Strap -Can be worn over water boots and/or booties -Lugs on sole for traction. -One-size-fits-most -Quick release leash system **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
MARINE RESCUE PRODUCTS INC	20	Each	$30.0000	$600.00	Complete	
OZARK RESCUE SUPPLIERS,						

INC.	20	Each	$56.0000	$1,120.00	Complete	
COLUMBUS LUMBER	20	Each	$60.7500	$1,215.00	Complete	
RB&T ENTERPRISES, INC.	20	Each	$70.0000	$1,400.00	Complete	If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	

Top of the Page

Line 016 GROUP 12: McNett Saturna Dive Knife or approved equal. Description: -420 Stainless Steel Knife Blade -Blunt tip w/serrated back edge and line cutter -Form fitting and slip resistant handle -Nylon handle w/lanyard hole for attaching to PFD -6.5" Blade length -Weight: 4.4 oz -Can be disassembled **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	20	Each	$16.2900	$325.80	Complete	
OZARK RESCUE SUPPLIERS, INC.	20	Each	$19.9800	$399.60	Complete	
RB&T ENTERPRISES, INC.	20	Each	$34.0000	$680.00	Complete	If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

Line 017 GROUP 13: NRS Reactor Rescue Gloves or approved equal. Description: -3.5 mm neoprene w/titanium laminate adhesive -Rubberized, armored, synthetic leather palm and fingers -Glued and blind-stitched seams -Pre-curved fingers -Powerspan or equivalent 4-way stretch fabric -Wristband with hook and loop closure -GripCote or equivalent on palms -Fleece strip on inner side of hand and forearm -Available sizes: XS, S, M, L, XL, XXL **SPECIFY MANUFACTURER/MODEL** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to lkaras@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
COLUMBUS LUMBER	20	Each	$35.1600	$703.20	Complete	
OZARK RESCUE SUPPLIERS, INC.	20	Each	$44.0000	$880.00	Complete	These gloves are backordered until December 2012
RB&T ENTERPRISES, INC.	20	Each	$50.0000	$1,000.00	Complete	NRS has Reactor gloves b/o til mid December 2012 Consider Paddlers gloves $30 ea Material: 2-mm Terraprene neoprene with Titanium Synthetic leather palms and fingers Seams: Single needle with high tenacity thread Palm Material: Synthetic leather Armored patches in key wear areas GripCoteâ„¢ Wristband with hook and loop closure If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	

INDUSTRIAL UNIFORM CO LLC	No Bid.
RESCUE SOLUTIONS INTERNATIONAL	No Bid.
MARINE RESCUE PRODUCTS INC	No Bid.

Top of the Page

Line 018 GROUP.14: Humminbird 1197C SI Combo Search and Rescue Side Imaging Sonar or approved equal. DESCRIPTION: - 10.4 in diagonal color display - 8000 watts (peak), 1000 watts (RMS) - audio/video output - screen snap shot to memory card -sonar recording - split screen zoom -split screen bottom lock -3D chart view -large digits view -wide/narrow cone split screen -custom view selections -custom digital readout selection -selectable color display -freeze frame, mark structure on sonar -instant image update -mark structure on sonar - *real time sonar*, 1500 ft depth -sonar echo enhancement -50 channel GPS -waterproof -1 year warranty

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
RB&T ENTERPRISES, INC.	2	Each	$2,550.0000	$5,100.00	Complete	1197C has been replace with 1198C If item is in stock lead day will be less 30 days
K & N MOTORCYCLES CORP					No Bid.	
D & D EQUIPMENT & SALES					No Bid.	
W W GRAINGER INC					No Bid.	
INDUSTRIAL UNIFORM CO LLC					No Bid.	
RESCUE SOLUTIONS INTERNATIONAL					No Bid.	
OZARK RESCUE SUPPLIERS, INC.					No Bid.	
COLUMBUS LUMBER					No Bid.	
MARINE RESCUE PRODUCTS INC					No Bid.	

Top of the Page

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB240158 Diving Dry Suits

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Return to the Bid List

Responses: 3

Vendors	Complete	Bid Total	City Comments
DIVE-QUARTERS INC.	Complete	$53,500.00	Award 10-16-12 Group 1 & Group 2 Base Bid w/ Options 1-5 Fire Dept./Training Division
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$61,776.00	
DIVING UNLIMITED INTERNATIONAL	Complete	$66,892.00	

Top of the Page

POWERED BY COGSDALE

670

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes bids by the totals for each group listed on the solicitation.

Vendor Group Line

Solicitation: FB240158 Diving Dry Suits

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Go to: 1

Return to the Bid List

Responses: 3

Group 1

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$8,600.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$9,076.00
DIVING UNLIMITED INTERNATIONAL	Complete	$9,892.00

Top of the Page

Group 2

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$28,980.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$33,000.00
DIVING UNLIMITED INTERNATIONAL	Complete	$35,960.00

Group 2: Option 1

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$3,440.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$4,100.00
DIVING UNLIMITED INTERNATIONAL	Complete	$4,460.00

Group 2: Option 2

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$6,580.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$7,700.00
DIVING UNLIMITED INTERNATIONAL	Complete	$8,960.00

Group 2: Option 3

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$1,100.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$1,300.00
DIVING UNLIMITED INTERNATIONAL	Complete	$1,400.00

Group 2: Option 4

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$2,740.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$3,200.00

DIVING UNLIMITED INTERNATIONAL	Complete	$3,560.00

Group 2: Option 5

Vendors	Complete	Group Total Net Bid
DIVE QUARTERS INC.	Complete	$2,060.00
DIVING UNLIMITED INTERNATIONAL	Complete	$2,660.00
HIGH-TECH DIVING AND SAFETY, INC.	Complete	$3,400.00

Top of the Page

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor Group Line

Solicitation: **FB240158** Diving Dry Suits

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: **Formal Bid**

Award Method: **Aggregate Cost**

Department: **Fire Department**

Go to: 001

Return to the Bid List

Responses: 3

Line 001 GROUP 1: DUI CXO100 Contaminated eXtreme Operations Drysuit DESCRIPTION: Men's Sizes: SS, S, ST, MS, M, MT, LS, L, LT, XLS, XL, XLT, XXLS, XXL, XXLT Materials: polyurethane laminated fabric (ASTM F739-07) Colors: red and black, all red or all black Features: - Polyurethane shoulder-entry zipper - Contaminated water valves: o Inlet/Flourosilicone o-rings o Exhaust /Double exhaust diaphragm with a check valve made with flourosilicone - 36in inflator hose with oversized quick disconnect - Reinforced pads at the knees, waist, and shoulders - RockBoot System - ZipSeals on Neck and Wrist o Allows for easy seal/glove changes on site o Neck includes attached latex hood with hood liner o Wrist includes dry gloves - Drysuit bag, ZipStick and talc **On-site fittings will be provided by vendor. Any fees for providing fitting service shall be included in per item cost. Standard sizing only.** ** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to mwalker@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	4	Each	$2,150.0000	$8,600.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	4	Each	$2,269.0000	$9,076.00	Complete	Bidding DUI CXO100 Select model as specified.
DIVING UNLIMITED INTERNATIONAL	4	Each	$2,473.0000	$9,892.00	Complete	Number of days calculated after all sizes are confirmed.

Top of the Page

Line 002 GROUP 2 BASE BID: DUI 111920 TLS350 Public Safety Select DESCRIPTION: Men's Sizes: SS, S, ST, MS, M, MT, LS, L, LT, XLS, XL, XLT, XXLS, XXL, XXLT Materials: Trilaminate material made of Nylon/Butyl Rubber/Nylon Seals: latex or neoprene Colors: navy or black body with your choice of overlay materials and colors Features: - Diagonal front- entry zipper - Telescoping torso, suspenders, crotch strap - Warm neck collar - Reflective tape - Apeks swivel inlet & adjustable, automatic exhaust valves and 36in inflator hose with oversized quick disconnect - High visibility overlays - Internal waist adjustment cord - Double layer material over knees, shoulders and buttocks - RockBoot System or Turbo Sole Boots with Ankle Straps - Public Safety Patch - Drysuit bag, talc and zipper ease **On-site fittings will be provided by vendor. Any fees for providing fitting service shall be included in per item cost. Standard sizing only.** ** Any deviations from the specifications listed must be identified with the bid submittal. Online bidders use the comments box for listing deviations and manufacturer/model. Literature shall be emailed to mwalker@wichita.gov or supplied with paper bids.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$1,449.0000	$28,980.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$1,650.0000	$33,000.00	Complete	Bidding DUI TLS350 Select model as specified.
DIVING UNLIMITED INTERNATIONAL	20	Each	$1,798.0000	$35,960.00	Complete	Number of days calculated after all sizes are confirmed.

Top of the Page

Line 003 GROUP 2 - OPTION 1: DUI Zip Wrist and Neck Installed Minimum order of 20. Additional quantities may be purchased at the same unit price.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$172.0000	$3,440.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$205.0000	$4,100.00	Complete	Bidding as specified.
DIVING UNLIMITED INTERNATIONAL	20	Each	$223.0000	$4,460.00	Complete	Installed on drysuits at time all sizes are confirmed.

Top of the Page

Line 004 GROUP 2 - OPTION 2: Polartec Pro Jumpsuit #208154 Minimum order of 20. Additional quantities may be purchased at the

same unit price.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$329.0000	$6,580.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$385.0000	$7,700.00	Complete	Bidding Polartech Powerstretch Jumpsuit as specified.
DIVING UNLIMITED INTERNATIONAL	20	Each	$448.0000	$8,960.00	Complete	Number of days calculated after all sizes are confirmed.

Top of the Page

Line 005 GROUP 2 - OPTION 3: Polartec Hood Liner #240150 Minimum order of 20. Additional quantities may be purchased at the same unit price.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$55.0000	$1,100.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$65.0000	$1,300.00	Complete	Bidding as specified.
DIVING UNLIMITED INTERNATIONAL	20	Each	$70.0000	$1,400.00	Complete	

Top of the Page

Line 006 GROUP 2 - OPTION 4: Zip Neck/Hood Combination #302264 Minimum order of 20. Additional quantities may be purchased at the same unit price.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$137.0000	$2,740.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$160.0000	$3,200.00	Complete	Bidding as specified.
DIVING UNLIMITED INTERNATIONAL	20	Each	$178.0000	$3,560.00	Complete	

Top of the Page

Line 007 GROUP 2 - OPTION 5: Zip Gloves Heavy Duty #302383 Minimum order of 20. Additional quantities may be purchased at the same unit price.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DIVE QUARTERS INC.	20	Each	$103.0000	$2,060.00	Complete	
DIVING UNLIMITED INTERNATIONAL	20	Each	$133.0000	$2,660.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	20	Each	$170.0000	$3,400.00	Complete	Bidding as specified.

Top of the Page

WICHITA
POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB240159 Underwater Breathing Diving System

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Return to the Bid List

Responses: 2

Vendors	Complete	Bid Total	City Comments
INTERSPIRO INC	Complete	$103,327.03	Award 10-16-12 Fire Dept./Training Division
HIGH-TECH DIVING AND SAFETY, INC.	Partial	$27,420.00	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes bids by the totals for each group listed on the solicitation.

Vendor Group Line

Solicitation: **FB240159** Underwater Breathing Diving System

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Fire Department

Go to: 1

Return to the Bid List

Responses: 2

Group 1

Vendors	Complete	Group Total Net Bid
INTERSPIRO INC	Complete	$103,327.03
HIGH-TECH DIVING AND SAFETY, INC.	Partial	$27,420.00

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor Group Line

Solicitation: **FB240159** Underwater Breathing Diving System

Close Date/Time: 10/5/2012 10:00 AM CST

Solicitation Type: **Formal Bid**

Award Method: **Aggregate Cost**

Department: **Fire Department**

Go to: 001

Return to the Bid List

Responses: 2

Line 001 Interspiro Item: 31554-01 -Dive regulator MK II, PSI Pressure Gauge with Reserve Valve & 4-port swivel, BC and suit inflation hose. -Suit inflation hose 2.5 ft 9 included in kit -BC inflation hose -323.4 HP dual cylinder set (72cu.ft.) -Weight set for 323.4 dual cylinder -User Manual Divator SCUBA US -Divator BV w/mouthpiece (yellow & black) with switch -Divator hose for Octopus regulator (67" long) with Octopus holder clip. -Divator Buoyancy Compensator (Small-XX Large)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	8	Each	$5,110.6700	$40,885.36	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 002 Interspiro Item: 31543-01 -Surface supply diving kit for first diver divator DP-1 surface panel kit (PSI) with 200 ft. hose with P+ regulator, carabine hook, communication cable with braided sleeve, belt, sign open and pressure relied handle. -Hose winding frame with straps (short) Manual, Packing and Labels. -Surface Supply Hose cover shall be (1) yellow, (1) green, (1) blue, (1) orange

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	1	Each	$9,930.4600	$9,930.46	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 003 Interspiro Item: 31542-01 -Description: SECOND DIVER KIT -Safety beltT-piece (secondary umbilical (DP2)) assy straight -200 ft hose with P+ regulator, communication cable and braided sleeve, pressure relief handle -Hose winding frame with straps, manual, packing and labels

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	2	Each	$5,871.2800	$11,742.56	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 004 Interspiro Item: 31543-01 -Description: surface supply diving kit for first diver -Divator DP-1 surface panel kit (PSI) with 200ft hose with P+ regulator, carabine hook, communication cable with braided sleeve, belt, sign open and pressure relief handle. -Hose winding frame with straps (short) manual, packing and labels. -Surface Supply Hose cover shall be (1) yellow, (1) green, (1) blue, (1) orange

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	1	Each	$9,930.4600	$9,930.46	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 005 Interspiro Item: 99369-01 Description: Fill adapter with flow restriction for filling HP divator composite cylinders

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	1	Each	$216.7500	$216.75	Complete	
HIGH-TECH DIVING AND					No Bid.	

SAFETY, INC.

Top of the Page

Line 006 Interspiro Item: EMA-2 Description: Interspiro AGA FFM, Hot Mic, Dual Earphones, PTT Control, HiUse

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HIGH-TECH DIVING AND SAFETY, INC.	22	Each	$385.0000	$8,470.00	Complete	Bidding OTS EMA-2 as specified.
INTERSPIRO INC	22	Each	$424.1500	$9,331.30	Complete	

Top of the Page

Line 007 Interspiro Item: 89100-01 Description: HUD with 1.75 meter (69in) cable (800 psi)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	8	Each	$220.5800	$1,764.64	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 008 Interspiro Item: 900307-01 Description: communications "Y" splitter. Three divers open communications to MK-7 Tender.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	2	Each	$168.7500	$337.50	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 009 Interspiro Item: 45187 Description: Divator CGA347-Din Adapter

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	4	Each	$78.3000	$313.20	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 010 Interspiro Item: SCA-330T Description: 3-gauge mini console includes, PSI, depth, compass.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	8	Each	$125.0000	$1,000.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.					No Bid.	

Top of the Page

Line 011 Interspiro Item: 30590-01 Description: Sunlight rail system light and rail

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	18	Each	$161.2500	$2,902.50	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	18	Each	$225.0000	$4,050.00	Complete	Bidding Interspiro PN: 30590-01 as specified.

Top of the Page

Line 012 Interspiro Item: MK-7 Description: portable two diver air intercom (4 wire only) (comes w/THB-7A headset with boom mic)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
HIGH-TECH DIVING AND SAFETY, INC.	2	Each	$880.0000	$1,760.00	Complete	Bidding OTS MK-7 as specified.
INTERSPIRO INC	2	Each	$934.1500	$1,868.30	Complete	

Top of the Page

Line 013 Interspiro Item: 96319-21 Description: black NR mask w/breathing valve w/safety pressure & ambient breathing valve (ABV)

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
INTERSPIRO INC	18	Each	$728.0000	$13,104.00	Complete	
HIGH-TECH DIVING AND SAFETY, INC.	18	Each	$730.0000	$13,140.00	Complete	Bidding Interspiro PN: 96319-21 as specified.

Top of the Page

WICHITA
POWERED BY
COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: **FB240161** Audio/Visual Equipment & Installation

Close Date/Time: 10/12/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Police Department

Return to the Bid List

Responses: 10

Vendors	Complete	Bid Total	City Comments
MIDWEST DIGITAL SYSTEMS, LLC	Complete	$53,868.18	Defer to 10/22/12, Police Department
PLEXUS, INC	Complete	$56,472.05	
GATEWAY WIRELESS SERVICES LC	Complete	$63,296.85	
SANDIFER ENGINEERING & CONTROLS INC	Complete	$74,531.04	
MCCLELLAND SOUND INC	Complete	$78,265.21	
INTER-PACIFIC, INC.	Complete	$94,637.00	
ALL SYSTEMS DESIGNED SOLUTIONS INC	Complete	$99,354.42	
TOWER PRODUCTS, INC	In-Complete	$0.00	
CARMICHAEL BUSINESS SYSTEMS, INC	Partial	$64,104.00	
VOICE PRODUCTS INC	Partial	$71,436.00	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB240164 Valves, Angle & Brass Low Lead Curb Stop

Close Date/Time: 10/12/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Water Distribution

Return to the Bid List

Responses: 4

Vendors	Complete	Bid Total	City Comments
WICHITA WINWATER WORKS CO	Complete	$61,104.50	Award 10/16/12 Public Works & Utilities Dept/Water Distribution Div
WATER PRODUCTS INC	Complete	$62,276.00	
HD SUPPLY WATERWORKS INC	Complete	$63,201.50	
JMD ENTERPRISES LLC	Complete	$70,725.00	

Top of the Page

POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor Group Line

Solicitation: **FB240164** Valves, Angle & Brass Low Lead Curb Stop

Close Date/Time: 10/12/2012 10:00 AM CST

Solicitation Type: **Formal Bid**

Award Method: **Aggregate Cost**

Department: **Water Distribution**

Go to: 001

Return to the Bid List

Responses: 4

Line 001 5/8" Angle Ball Valve - Low lead brass ball with 360 degree turn with lock wing 3/4" FIPT x 5/8" meter size. No Saddle Nut. Ford, Mueller, AY McDonald, Cambridge Brass MANUFACTURER/MODEL:

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
WATER PRODUCTS INC	300	Each	$25.3100	$7,593.00	Complete	FORD BA13-231WR-NL
HD SUPPLY WATERWORKS INC	300	Each	$25.7700	$7,731.00	Complete	Ford BA13-231WR-NL (No Lead)
WICHITA WINWATER WORKS CO	300	Each	$26.1900	$7,857.00	Complete	AY Mcd 74654BLS
JMD ENTERPRISES LLC	300	Each	$29.6200	$8,886.00	Complete	Mueller #024265 R3203N. Mueller is quoting a delivery lead time of 30-45 days.

Top of the Page

Line 002 3/4" Angle Ball Valve - Low lead brass valve with 360 degree turn with lock wing 3/4" FIPT x 3/4" meter size. No Saddle Nut. Ford, Mueller, AY McDonald, Cambridge Brass MANUFACTURER/MODEL:

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
WICHITA WINWATER WORKS CO	250	Each	$46.2400	$11,560.00	Complete	AY Mcd 74614BLS
WATER PRODUCTS INC	250	Each	$47.8800	$11,970.00	Complete	FORD BA13-332WR-NL
HD SUPPLY WATERWORKS INC	250	Each	$48.7700	$12,192.50	Complete	Ford BA13-332WR-NL (No Lead)
JMD ENTERPRISES LLC	250	Each	$53.0000	$13,250.00	Complete	Mueller #024265 3215N Mueller is quoting a delivery lead time of 30-45 days.

Top of the Page

Line 003 1" Angle Ball Valve - Low lead brass valve with 360 degree turn with lock wing 1" FIPT x 1" meter size. No Saddle Nut. Ford, Mueller, AY McDonald, Cambridge Brass MANUFACTURER/MODEL:

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
WICHITA WINWATER WORKS CO	250	Each	$68.9500	$17,237.50	Complete	AY Mcd 74614BLS
WATER PRODUCTS INC	250	Each	$71.7800	$17,945.00	Complete	FORD BA13-444WR-NL
HD SUPPLY WATERWORKS INC	250	Each	$73.1100	$18,277.50	Complete	Ford BA13-444WR-NL (No Lead)
JMD ENTERPRISES LLC	250	Each	$79.4200	$19,855.00	Complete	Mueller #024265 3330N Mueller is quoting a delivery lead time of 30-45 days.

Top of the Page

Line 004 2" Brass Curb Stop Ball Valve - Low lead allow 1/4 turn brass ball valve. FIPTx FIPT Ford, Mueller, AY McDonald MANUFACTURER/MODEL:

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments

WICHITA WINWATER WORKS CO	150	Each	$163.0000	$24,450.00	Complete	AY Mcd 76101
WATER PRODUCTS INC	150	Each	$165.1200	$24,768.00	Complete	FORD B11-777-NL
HD SUPPLY WATERWORKS INC	150	Each	$166.6700	$25,000.50	Complete	Ford B11-777-NL (No Lead)
JMD ENTERPRISES LLC	150	Each	$191.5600	$28,734.00	Complete	Mueller #020283 550N Mueller is quoting a delivery lead time of 30-45 days.

Top of the Page

WICHITA
POWERED BY COGSDALE

ep.wichita.gov

Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: **FB240149** Repair/Refurbish Waterwalk Parking Deck

Close Date/Time: 9/28/2012 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Aggregate Cost

Department: Public Works & Utilities

Return to the Bid List

Responses: 1

Vendors	Complete	Bid Total	City Comments
MARTIN K EBY CONSTRUCTION CO INC	Complete	$389,604.00	Reject Bid Public Works & Utilities Dept./Engineering & Architecture Division

Top of the Page

POWERED BY COGSDALE

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

PRELIMINARY ESTIMATES
FOR CITY COUNCIL OCTOBER 16, 2012

a. Lateral 169, War Industries Sewer to serve Stoney Pointe Addition (east of Greenwich, south of 29th Street North) (468-84735/744338/480030) Does not affect existing traffic. (District II) - $25,900.00

b. 2012 Sanitary Sewer Reconstruction Phase 7 (north of Kellogg, east of Hillside) (468-84846/620601/662016) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $220,000.00

c. Riverside Area Sanitary Sewer Improvements, Sewer Reconstruction Phase 1 (north of Central, east of Meridian) (468-84839/624103/652021) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - $750,000.00

d. 2012 Contract Maintenance CIP Concrete Repairs Ph 2 (various locations) (472-85064/707039/620570/636246/133116/211504/661686/771633/_) Traffic to be maintained during construction using flagpersons and barricades. (District I,III,IV,V,VI) - $693,699.00

e. Lateral 59, Main 24, War Industries Sewer to serve Remington Place (south of 21st Street North, east of Webb) (468-84786/744340/480032) Traffic to be maintained during construction using flagpersons and barricades. (District II) - $107,000.00

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Petitions for Street Paving, Drainage and Water Systems in Emerald Bay Estates 2nd Addition (north of 21st, west of West Street) (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the new petitions.

Background: On September 15, 2009, the City Council approved petitions to construct street paving and water distribution systems in Emerald Bay Estates 2nd Addition. The developer has submitted new petitions for paving and water system improvements to re-phase the construction of infrastructure in smaller phases within the addition to reflect current market conditions. The developer has also submitted a new petition to add a storm water drain for the addition. The signatures on the petitions represent 100% of the improvement districts.

Analysis: The projects will provide paving, drainage and water system improvements for a new residential development located north of 21st, west of West Street.

Financial Considerations: The existing petitions for the paving and water system improvements total $728,000; the new petitions now total $138,000. The storm water drain petition totals $160,000. The total of the new petitions are $298,000. The funding source is special assessments.

Goal Impact: These projects address the Efficient Infrastructure goal by providing paving, drainage, and water system improvements for a new residential development.

Legal Considerations: The Law Department has approved the petitions and resolutions as to form.

Recommendation/Action: It is recommended that the City Council approve the new petitions, adopt the resolutions, and authorize the necessary signatures.

Attachments: Map, CIP sheets, petitions and resolutions.

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilities	Eng & Arc	9/20/2012	Storm Water Drain in Emerald Bay Estates 2nd Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	Other	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Dam				
Drainage		$160,000		$160,000
Storm Water Sewer				
Sidewalk				
Water				
Traffic Signals & Turn Lanes				
Totals		$160,000		$160,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Peititon

*Storm Water Utility

SWD No. 382

468-84845

13. Recommendation: Approve the Petition and adopt the Resolution.

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilites	Eng & Arch	9/20/2012	S Street Paving in Emerald Bay Estates 2nd Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	KDOT	LST	TOTAL
Right of Way				
Paving, grading & const.	$108,000			$108,000
Bridge				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Freeway				
Totals	$108,000			$108,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84867

13. Recommendation: Approve the new petition and adopt the resoltuion.

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilites	Eng & Arch	9/20/2012	Water Distribution System in Emerald Bay Estates 2nd Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER*	TOTAL
Right of Way				
Paving, grading & const.				
Bridge				
Drainage				
Sanitary Sewer				
Sidewalk				
Water		$30,000		$30,000
Traffic Signals & Turn Lanes				
Totals		$30,000		$30,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

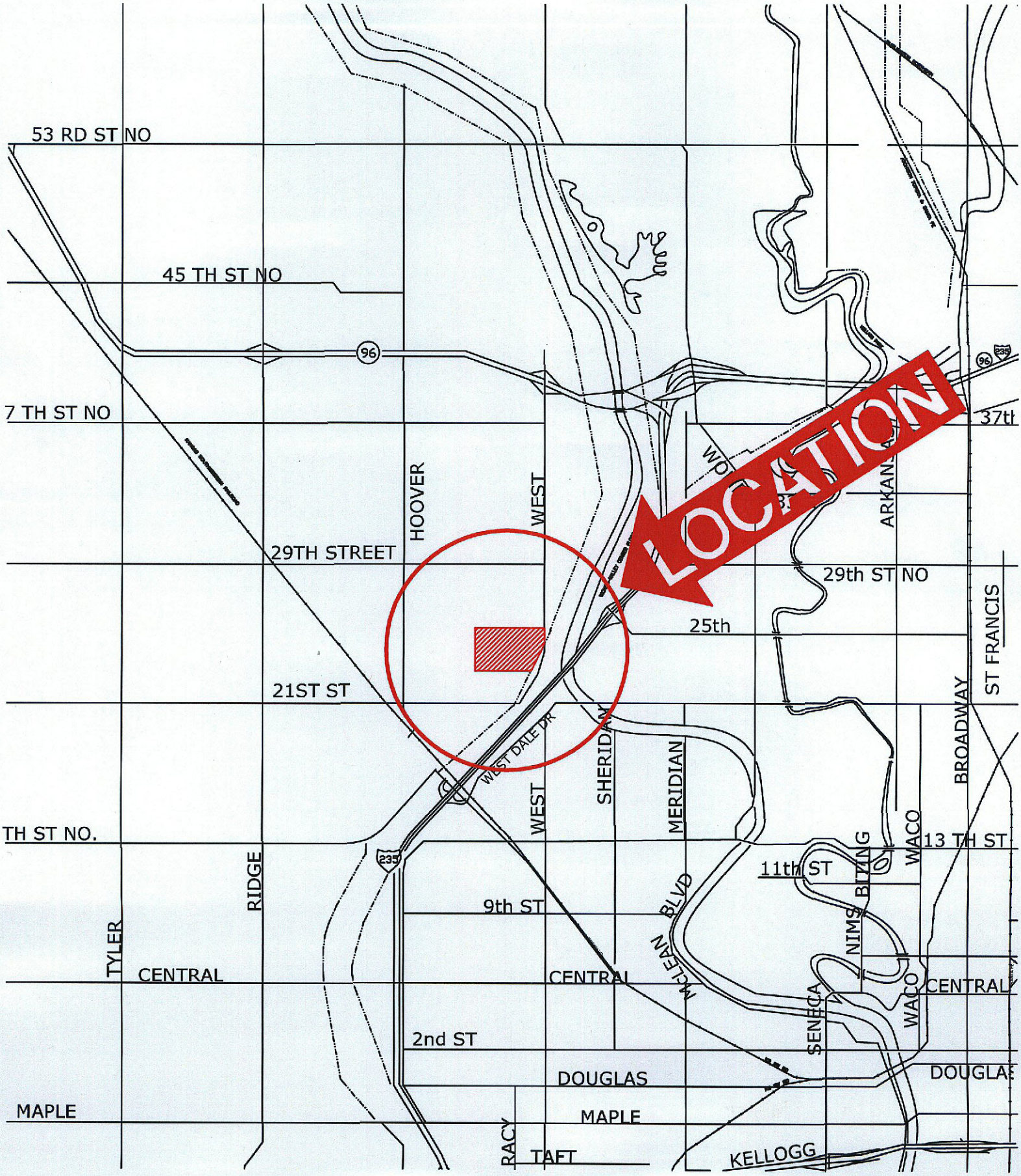
100% Petition

*Water Utility

448-90453

13. Recommendation: Approve the new petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date


53 RD ST NO
45 TH ST NO
7 TH ST NO
37th
29TH STREET
29th ST NO
25th
21ST ST
TH ST NO.
13 TH ST
11th ST
9th ST
CENTRAL
2nd ST
DOUGLAS
MAPLE
TAFT
KELLOGG
TYLER
RIDGE
HOOVER
WEST
SHERIDAN
MERIDIAN
McLEAN BLVD
SENECA
NIMS
BITING
WACO
BROADWAY
ST FRANCIS
WEST DALE DR
LOCATION
96
235

$

RECEIVED

AUG 24 '12

CITY CLERK OFFICE

STORM WATER DRAIN PETITION

To the Mayor and City Council
Wichita, Kansas

SWD # 382

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 30, Block 1

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

468- 84845

(a) That there be constructed a storm water sewer system to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

N. of 21st St. N
W. of West St
Dist. V

(b) That the estimated and probable cost of the foregoing improvements being One Hundred Sixty Thousand Dollars ($160,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after July 1, 2012.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which

the improvement district shall be liable shall be on a fractional basis: That the following described lots and tracts situated in Emerald Bay Estates 2nd Addition, Wichita, Sedgwick County, Kansas shall each pay 1/15 of the total cost payable by the improvement district:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 30, Block 1

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.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

(b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 12-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
EMERALD BAY ESTATES 2ND ADDITION Lots 16 – 30, Block 1	SNAR, LLC By: [signature] managing member	7/31/12

AFFIDAVIT

The undersigned, being duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Christopher M. Bohm

924 N. Main
Address

264-8008
Telephone number

Sworn to and subscribed before me this 24th day of August, 2012.

Deputy City Clerk

RECEIVED

AUG 24 '12

CITY CLERK OFFICE

WATER DISTRIBUTION SYSTEM PETITION

Revises 448-90453

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 22, Block 1

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

(a) That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, meters and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements being Thirty Thousand Dollars ($30,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after July 1, 2012.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which

the improvement district shall be liable shall be on a fractional basis:

That the following tracts and lots in Emerald Bay Estates 2nd Addition, Wichita, Sedgwick County, Kansas shall each pay 1/7 of the total cost of the improvement district:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 22, Block 1

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.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
EMERALD BAY ESTATES 2ND ADDITION Lots 16 – 22, Block 1	x	8/21/2012

AFFIDAVIT

The undersigned, being duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Christopher M. Bohm

924 N. Main
Address

264-8008
Telephone number

Sworn to and subscribed before me this 24th day of August, 2012.

Deputy City Clerk

RECEIVED

SEP 12 '12

CITY CLERK OFFICE

PAVING PETITION

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 22, Block 1

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

472-84867

(a) That there be constructed pavement on **SHORELINE** from the west line of Lot 22, Block 1 to the east line of Lot 16, Block 1, Emerald Bay Estates 2nd Addition;

That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage is to be installed where necessary, and sidewalks to be constructed on one side of all through, non cul-de-sac streets.

(b) That the estimated and probable cost of the foregoing improvement being One Hundred Eight Thousand Dollars ($108,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at a pro rata of 1 percent per month from and after July 1, 2012.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

That the following lots and tracts in Emerald Bay Estates 2nd Addition, Wichita, Sedgwick County, Kansas shall each pay 1/7 of the total cost of the improvement district:

EMERALD BAY ESTATES 2ND ADDITION

Lots 16 – 22, Block 1

Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. 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.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
EMERALD BAY ESTATES 2ND ADDITION	SNAR, LLC	
Lots 16 – 22, Block 1	By: x manager	9/6/12

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

Juliaime Kallman
Name

455 N. Main
Address

268-4236
Telephone Number

Sworn to and subscribed before me this 12th day of September 2012.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Deputy City Clerk

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-232

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING **STORM WATER DRAIN NO. 382 (NORTH OF 21ST, WEST OF WEST STREET) 468-84845** 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 **STORM WATER DRAIN NO. 382 (NORTH OF 21ST, WEST OF WEST STREET) 468-84845** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Storm Water Drain No. 382 (west of 21st, west of West Street) 468-84845.**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Sixty Thousand Dollars ($160,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **July 1, 2012**, exclusive of the costs of temporary financing.

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:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 30, Block 1

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 **fractional** basis:

That the following described lots and tracts situated in Emerald Bay Estates 2nd Addition, Wichita, Sedgwick County, Kansas shall each pay 1/15 of the total cost payable by the improvement district:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 30, Block 1

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 16th day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
DIRECTOR OF LAW

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-233

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING PAVEMENT ON **SHORELINE FROM THE WEST LINE OF LOT 22, BLOCK 1 TO THE EAST LINE OF LOT 16, BLOCK 1, EMERALD BAY ESTATES 2ND ADDITION (NORTH OF 21ST, WEST OF WEST STREET) 472-84867** 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 AUTHORIZING CONSTRUCTING PAVEMENT ON **SHORELINE FROM THE WEST LINE OF LOT 22, BLOCK 1 TO THE EAST LINE OF LOT 16, BLOCK 1, EMERALD BAY ESTATES 2ND ADDITION (NORTH OF 21ST, WEST OF WEST STREET) 472-84867** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 09-297** adopted on **September 15, 2009** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on **Shoreline from the west line of Lot 22, Block 1 to the east line of Lot 16, Block 1, Emerald Bay Estates 2nd Addition (north of 21st, west of West Street) 472-84867** Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Hundred Eight Thousand Dollars ($108,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **July 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. 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:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 22, Block 1

SECTION 5. 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 **fractional** basis.

That the following lots and tracts in EMERALD BAY ESTATES 2ND ADDITION, Wichita, Sedgwick County, Kansas shall each pay 1/7 of the total cost of the improvement district:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 22, Block 1

Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. 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 7. 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 8. 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 9. 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 10. 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 16th day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF, DIRECTOR OF LAW

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-234

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90453 (NORTH OF 21ST, WEST OF WEST STREET)** 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 IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90453 (NORTH OF 21ST, WEST OF WEST STREET)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 09-294** adopted on **September 15, 2009** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90453 (north of 21st, west of West Street).**

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Thirty Thousand Dollars ($30,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **July 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. 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:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 22, Block 1

SECTION 5. 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 **fractional** basis.

That the method of assessment of all costs of the improvement district for which the improvement district shall be liable shall be on a fractional basis: that the following lots shall each pay 1/7 of the total cost of the improvement district:

EMERALD BAY ESTATES 2ND ADDITION
Lots 16 through 22, Block 1

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 6. 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 7. 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 8. 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 9. 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 10. 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 16th day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF,
DIRECTOR OF LAW

Agenda Item No. II-5b

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Petition for a Water Distribution in Stoney Pointe Addition (east of Greenwich, south of 29th Street North) (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

- -

Recommendation: Approve the new petition.

Background: On April 5, 2011, the City Council approved a petition for water system improvements in Stoney Pointe Addition. An attempt to award a construction contract within the budget set by the petition was not successful. The developer has submitted a new petition with an increased budget. The signature on the petition represents 100% of the improvement district.

Analysis: The project will provide a water system for a new residential development located east of Greenwich, south of 29th Street North.

Financial Considerations: The existing petition totals $47,500. The new petition totals $54,500. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing water system improvements required for a new residential development.

Legal Considerations: The Law Department has approved the petition and resolution as to form.

Recommendations/Actions: It is recommended that the City Council approve the new petition, adopt the resolution and authorize the necessary signatures.

Attachments: Petition and resolution.

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilites	Eng & Arch	10/2/2012	Water Distribution System in Stoney Point Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER*	TOTAL
Right of Way				
Paving, grading & const.				
Bridge				
Drainage				
Sanitary Sewer				
Sidewalk				
Water		$54,500		$54,500
Traffic Signals & Turn Lanes				
Totals		$54,500		$54,500
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

*Water Utility

448-90516

13. Recommendation: Approve the new petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

132019

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-235

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90516 (EAST OF GREENWICH, SOUTH OF 29TH ST. NORTH)** 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 IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90516 (EAST OF GREENWICH, SOUTH OF 29TH ST. NORTH)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 11-046** adopted on **April 5, 2011** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90516 (east of Greenwich, south of 29th St. North).**

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Fifty-Four Thousand Five Hundred Dollars ($54,500)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **January 1, 2011**, exclusive of the costs of temporary financing.

SECTION 4. 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:

STONEY POINTE ADDITION
Lots 1 through 4, Block A

SECTION 5. 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 **fractional** basis.

> That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1, Block A; STONEY POINTE ADDITION shall pay 7,666/10000 of the total cost payable by the improvement district. Lot 2, Block A; STONEY POINTE ADDITION shall pay 730/10000 of the total cost payable by the improvement district. Lot 3, Block A; STONEY POINTE ADDITION shall pay 812/10000 of the total cost payable by the improvement district. Lot 4, Block A; STONEY POINTE ADDITION shall pay 792/10000 of the total cost payable by the improvement district.

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 6. 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 7. 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 8. 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 9. 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 10. 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 16th day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF,
DIRECTOR OF LAW

WATER DISTRIBUTION SYSTEM PETITION

448-90516

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

STONEY POINTE ADDITION
Lots 1 through 4, Block A

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

(a) That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(east of Greenwich, S of 29th St. North)

(b) That the estimated and probable cost of the foregoing improvements being Fifty Four Thousand Five Hundred Dollars ($54,500), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after January 1, 2011.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property

described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis:

Lot 1, Block A; Stoney Pointe Addition shall pay 7,666/10000 of the total cost payable by the improvement district. Lot 2, Block A; Stoney Pointe Addition shall pay 730/10000 of the total cost payable by the improvement district. Lot 3, Block A; Stoney Pointe Addition shall pay 812/10000 of the total cost payable by the improvement district. Lot 4, Block A; Stoney Pointe Addition shall pay 792/10000 of the total cost payable by the improvement district.

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.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. This petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04.

4. The proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

5. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

6. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
Stoney Pointe Addition Lots 1 through 4, Block A, Stoney Pointe Addition, an addition to Wichita, Sedgwick County, Kansas	Edward Rose Development Company, L.L.C. a Michigan limited liability company By: Jerry R. Speedy Jerry R. Speedy, Authorized Agent Edward Rose Development Company, L.L.C. a Michigan limited liability company	10/2/12

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in Krug South Addition (south of 21st Street North, west of 143rd Street East) (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the petition.

Background: The signature on the petition represents 100% of the improvement districts.

Analysis: The project will provide sanitary sewer for a new residential development located south of 21st Street North, west of 143rd Street East.

Financial Considerations: The petition total $16,000. The funding source is special assessments.

Goal Impact: The projects address the Efficient Infrastructure goal by providing sanitary sewer required for new residential development.

Legal Considerations: The petition and resolution have been approved as to form by the Law Department.

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

Attachments: Map, CIP sheet, petition and resolution.

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	X
To Revise Project	

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilites	Eng & Arch	9/19/2012	Sanitary Sewer in Krug South Second Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER*	TOTAL
Right of Way				
Paving, grading & const.				
Bridge				
Drainage				
Sanitary Sewer		$16,000		$16,000
Sidewalk				
Water				
Traffic Signals & Turn Lanes				
Totals		$16,000		$16,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

*Sanitary Sewer Utility

Lateral 11, Main 14, Four Mile Creek Sewer

468-84847

13. Recommendation: Approve the petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

132019

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-236

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 11, MAIN 14, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, WEST OF 143RD ST. EAST) 468-84870** 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 THE CONSTRUCTION OF **LATERAL 11, MAIN 14, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, WEST OF 143RD ST. EAST) 468-84870** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct **Lateral 11, Main 14 Four Mile Creek Sewer (south of 21st St. North, west of 143rd St. East) 468-84878.**

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Sixteen Thousand Dollars ($16,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **September 1, 2012**, exclusive of the costs of temporary financing.

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:

KRUG SOUTH SECOND ADDITION

DESCRIPTION OF
Tract 1, Krug South Second Addition

A tract of land lying within Lot 1, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34”W, a distance of 272.81 feet; thence along the southerly line of said addition S49°35'42”W, 230.26 feet to the POINT OF BEGINNING, being the southeast corner of said Lot 1; thence continuing along said southerly line N86°50'50"W, 135.47 feet to the southwest corner of said Lot 1; thence along the west lines of said Lot 1 for the next two courses, N03°07'43"E, 62.38 feet to a point on a curve to the left, having a radius of 429.00 feet, a central angle of 13°46'16", a chord bearing of N03°45'25"W, and a chord distance of 102.86 feet; thence along the arc of said curve a distance of 103.11 feet to the northwest corner of said Lot 1; thence along the north line of said Lot 1, N89°02'03"E, 91.25 feet; thence S15°14'03"E, 180.26 feet to the POINT OF BEGINNING.

CONTAINING: 18,515 square feet or 0.43 acres of land, more or less.

DESCRIPTION OF
Tract 2, Krug South Second Addition

A tract of land lying within portions of Lots 1 and 2, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34”W, a distance of 272.81 feet; thence along the southerly line of said addition S49°35'42”W, 52.05 feet to the POINT OF BEGINNING; thence continuing along said southerly line S49°35'42”W, 178.21 feet to the southeast corner of said Lot 1; thence N15°14'03"W, 180.26 feet to the north line of said Lot 1; thence along said north line, N89°02'03"E, 20.30 feet to the northeast corner of said Lot 1, being a point on a curve to the left, having a radius of 50.00 feet, a central angle of 55°25'29", a chord bearing of N61°19'18"E, and a chord distance of 46.50 feet, thence along the arc of said curve a distance of and along the northerly line of said Lot 2, 48.37 feet; thence S56°23'26"E, 146.45 feet to the POINT OF BEGINNING.

CONTAINING: 17,995 square feet or 0.41 acres of land, more or less.

DESCRIPTION OF
Tract 3, Krug South Second Addition

A tract of land lying within portions of Lots 2 and 3, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34”W, a distance of 128.88 feet to the POINT OF BEGINNING; thence continuing along said easterly line S00°09'34”W, 143.94 feet; thence along southerly line of said addition S49°35'42"W, 52.05 feet; thence N56°23'26"W, 146.45 feet to a point on the northerly line of Lot 2, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 52°18'38", a chord bearing of N07°27'15"E, and a chord distance of 44.08 feet, thence along the arc of said curve line a distance of 45.65 feet; thence N71°17'57"E, 165.00 feet to the POINT OF BEGINNING.

CONTAINING: 18,416 square feet or 0.42 acres of land, more or less.

DESCRIPTION OF
Tract 4, Krug South Second Addition

A tract of land lying within portions of Lots 3 and 4, Block 1, and a portion of Reserve "A", Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34”W, a distance of 18.56 feet to the POINT OF BEGINNING; thence continuing along said east line S00°09'34”W, 110.32 feet; thence S71°17'57"W, 165.00 feet to a point on the westerly line of Lot 3, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 51°20'39", a chord bearing of N44°22'23"W, and a chord distance of 43.32 feet, thence along the arc of said curve a distance of 44.81 feet; thence N19°57'18"E, 138.40 feet; thence N89°06'38"E, 139.67 feet to the POINT OF BEGINNING.

CONTAINING: 22,398 square feet or 0.51 acres of land, more or less.

DESCRIPTION OF
Tract 5, Krug South Second Addition

A tract of land lying within a portion of Lot 4, Block 1, and a portion of Reserve "A", Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34”W, a distance of 18.56 feet; thence S89°06'38"W, 139.67 feet to the POINT OF BEGINNING; thence S19°57'18"W, 138.40 feet to a point on a southerly line of Lot 4, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 101°42'50", a chord bearing of S59°05'53"W, and a chord distance of 77.56 feet, thence along the arc of said curve a distance of 88.76 feet to a southeasterly corner of said Lot 4; thence along the southerly line of said Lot 4, S89°02'03"W, 44.09 feet to the southwest corner of said Lot 4; thence along the westerly line of said Lot 4, N03°23'33"E, 91.02 feet; thence N21°36'45"E, 29.58 feet; thence N44°17'07"E, 71.06 feet; thence N89°06'38"E, 91.97 feet to the POINT OF BEGINNING.

CONTAINING: 16,773 square feet or 0.39 acres of land, more or less.

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 **fractional** basis.

> The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Tracts 1 through 5; KRUG SOUTH SECOND ADDITION shall each pay 1/5 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. 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 16th day of October, 2012.

_____
CARL BREWER, MAYOR

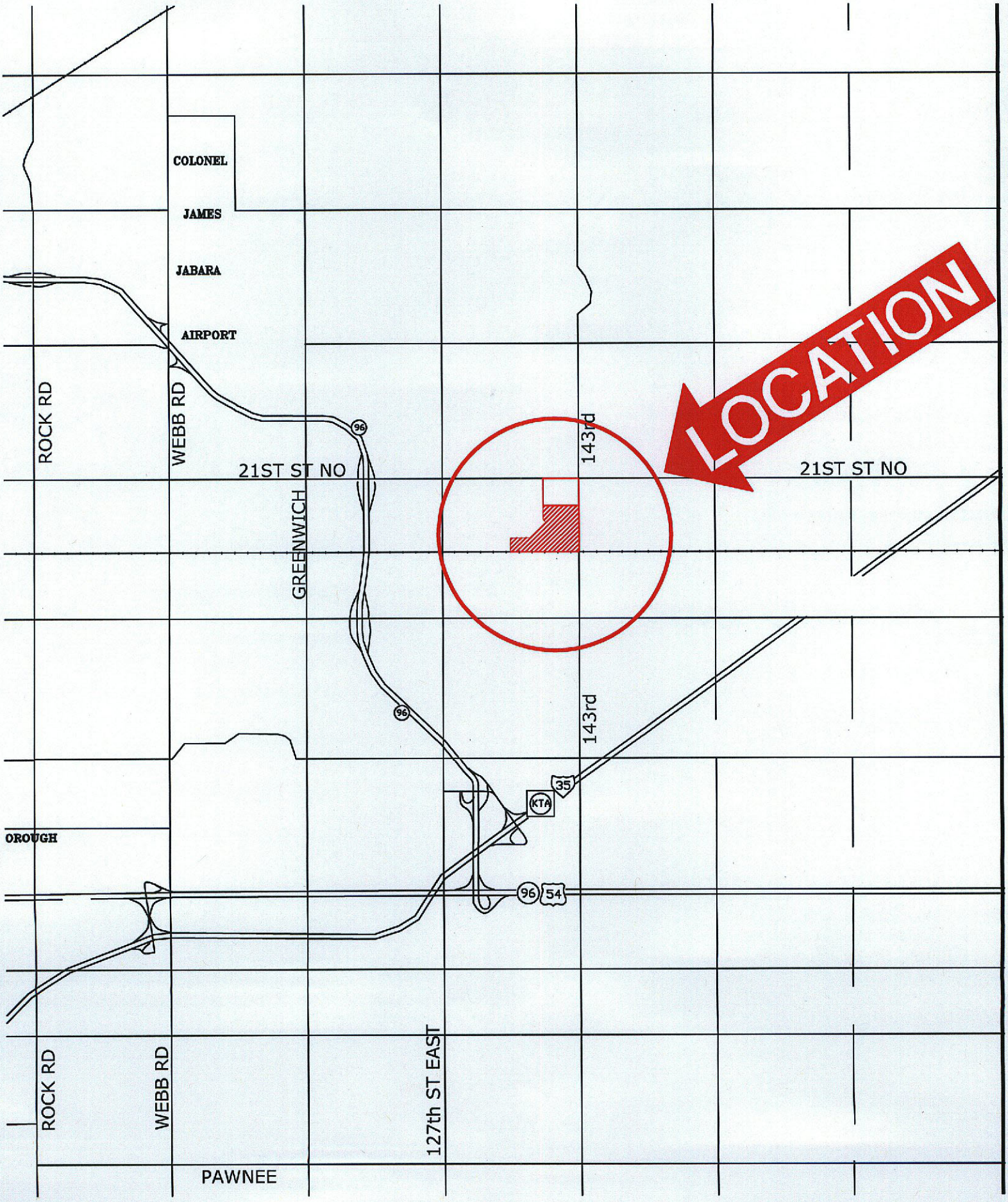
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
DIRECTOR OF LAW


COLONEL
JAMES
JABARA
AIRPORT
ROCK RD
WEBB RD
21ST ST NO
GREENWICH
143rd
LOCATION
21ST ST NO
96
143rd
35
KTA
OROUGH
96
54
ROCK RD
WEBB RD
127th ST EAST
PAWNEE

RECEIVED

AUG 3 1 '12

CLERK OFFICE

SANITARY SEWER PETITION
PHASE 3

To the Mayor and City Council
Wichita, Kansas

Lat. 11, Main 14, FMC

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

468-84847

KRUG SOUTH SECOND ADDITION
Tracts 1 through 5; see attached legal descriptions

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

(a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements is Sixteen Thousand Dollars ($16,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after September 1, 2012.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The

fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Tracts 1 through 5; Krug South Addition shall each pay 1/5 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. 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.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

   (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
KRUG SOUTH SECOND ADDITION Tracts 1 through 5; Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas. (see attached legal descriptions)	**KRUG SOUTH RESIDENTIAL, LLC** **A Kansas Limited Liability Company** By: _____ Kevin Mullen, President Ritchie Development Corporation, Manager	

DESCRIPTION OF
Tract 1, Krug South Second Addition

A tract of land lying within Lot 1, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34"W, a distance of 272.81 feet; thence along the southerly line of said addition S49°35'42"W, 230.26 feet to the POINT OF BEGINNING, being the southeast corner of said Lot 1; thence continuing along said southerly line N86°50'50"W, 135.47 feet to the southwest corner of said Lot 1; thence along the west lines of said Lot 1 for the next two courses, N03°07'43"E, 62.38 feet to a point on a curve to the left, having a radius of 429.00 feet, a central angle of 13°46'16", a chord bearing of N03°45'25"W, and a chord distance of 102.86 feet; thence along the arc of said curve a distance of 103.11 feet to the northwest corner of said Lot 1; thence along the north line of said Lot 1, N89°02'03"E, 91.25 feet; thence S15°14'03"E, 180.26 feet to the POINT OF BEGINNING.

CONTAINING: 18,515 square feet or 0.43 acres of land, more or less.

DESCRIPTION OF
Tract 2, Krug South Second Addition

A tract of land lying within portions of Lots 1 and 2, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34"W, a distance of 272.81 feet; thence along the southerly line of said addition S49°35'42"W, 52.05 feet to the POINT OF BEGINNING; thence continuing along said southerly line S49°35'42"W, 178.21 feet to the southeast corner of said Lot 1; thence N15°14'03"W, 180.26 feet to the north line of said Lot 1; thence along said north line, N89°02'03"E, 20.30 feet to the northeast corner of said Lot 1, being a point on a curve to the left, having a radius of 50.00 feet, a central angle of 55°25'29", a chord bearing of N61°19'18"E, and a chord distance of 46.50 feet, thence along the arc of said curve a distance of and along the northerly line of said Lot 2, 48.37 feet; thence S56°23'26"E, 146.45 feet to the POINT OF BEGINNING.

CONTAINING: 17,995 square feet or 0.41 acres of land, more or less.

DESCRIPTION OF
Tract 3, Krug South Second Addition

A tract of land lying within portions of Lots 2 and 3, Block 1, Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34"W, a distance of 128.88 feet to the POINT OF BEGINNING; thence continuing along said easterly line S00°09'34"W, 143.94 feet; thence along southerly line of said addition S49°35'42"W, 52.05 feet; thence N56°23'26"W, 146.45 feet to a point on the northerly line of Lot 2, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 52°18'38", a chord bearing of N07°27'15"E, and a chord distance of 44.08 feet, thence along the arc of said curve line a distance of 45.65 feet; thence N71°17'57"E, 165.00 feet to the POINT OF BEGINNING.

CONTAINING: 18,416 square feet or 0.42 acres of land, more or less.

DESCRIPTION OF
Tract 4, Krug South Second Addition

A tract of land lying within portions of Lots 3 and 4, Block 1, and a portion of Reserve "A", Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34"W, a distance of 18.56 feet to the POINT OF BEGINNING; thence continuing along said east line S00°09'34"W, 110.32 feet; thence S71°17'57"W, 165.00 feet to a point on the westerly line of Lot 3, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 51°20'39", a chord bearing of N44°22'23"W, and a chord distance of 43.32 feet, thence along the arc of said curve a distance of 44.81 feet; thence N19°57'18"E, 138.40 feet; thence N89°06'38"E, 139.67 feet to the POINT OF BEGINNING.

CONTAINING: 22,398 square feet or 0.51 acres of land, more or less.

DESCRIPTION OF
Tract 5, Krug South Second Addition

A tract of land lying within a portion of Lot 4, Block 1, and a portion of Reserve "A", Krug South Second Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

COMMENCING at the northeast corner of said addition; thence along the east line of said addition on a platted bearing of S00°09'34"W, a distance of 18.56 feet; thence S89°06'38"W, 139.67 feet to the POINT OF BEGINNING; thence S19°57'18"W, 138.40 feet to a point on a southerly line of Lot 4, being a point on a non-tangent curve to the left, having a radius of 50.00 feet, a central angle of 101°42'50", a chord bearing of S59°05'53"W, and a chord distance of 77.56 feet, thence along the arc of said curve a distance of 88.76 feet to a southeasterly corner of said Lot 4; thence along the southerly line of said Lot 4, S89°02'03"W, 44.09 feet to the southwest corner of said Lot 4; thence along the westerly line of said Lot 4, N03°23'33"E, 91.02 feet; thence N21°36'45"E, 29.58 feet; thence N44°17'07"E, 71.06 feet; thence N89°06'38"E, 91.97 feet to the POINT OF BEGINNING.

CONTAINING: 16,773 square feet or 0.39 acres of land, more or less.

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 31 day of August 2012.

Deputy City Clerk

KRUG SOUTH SECOND ADDITION
SANITARY SEWER PHASE 3 PETITION
COST ESTIMATE

Description	Quantity	Unit	Std Unit Price	Custom Unit Price	Extension
8" SS	100	LF	$ 24.00	$ 50.00	$ 5,000.00
Manholes	1	EA	$ 3,500.00		$ 3,500.00
Connect to existing Manhole	1	EA	$ 1,500.00		$ 1,500.00
				Contingencies @ 20% +/-	$ 2,000.00
				Construction Total	$ 12,000.00
				35% Engineering, Inspection Etc.	$ 4,200.00
				TOTAL	$ 16,200.00

For Petition Use $16,000.00

DEEDS AND EASEMENTS – OCTOBER 16, 2012

a. Storm Water Drainage and Detention Basin Improvements Easement dated September 25th, 2012 from 21 Webb LLC for a pond lying within Reserve N, Remington Place Addition, an addition to Wichita, Sedgwick County, Kansas, (OCA #751512) No cost to City.

Agenda Item No. II-7a

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Wichita Veterans Day Post Parade Event (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closure.

Background: In accordance with the Community Events procedure, the event promoter Mike George, USD 259 is coordinating the Wichita Veterans Day Post Parade Event with staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Wichita Veterans Day Post Parade Event November 10, 2012 9:00 am – 2:00 pm

- Douglas Avenue, Century II Drive to Waco Street - east bound lanes only.

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. II-7b

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Girls on the Run Fall 5K (District II)

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, Clark Ensz, Inc. is coordinating the Girls on the Run 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Girls on the Run Fall 5K Sunday November 11, 2012 1:00 pm – 3:00 pm

- Douglas Avenue, West Parkway to Webb Road
- Linden Street, Douglas Avenue to Sequoia Street
- Sequoia Street, Linden Street to East Parkway
- East Parkway, Sequoia Street to Douglas Parkway
- Douglas Parkway, East Parkway to Cypress Street
- Cypress Street, Douglas Parkway to Sequoia Street

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. II-7c

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Arthritis Foundation Jingle Bell Run/Walk (Districts I, IV and 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 Craig Davis, Arthritis Foundation Development Director is coordinating the Arthritis Foundation Jingle Bell Run/Walk with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Arthritis Foundation Jingle Bell Run/Walk December 1, 2012 9:00 am – 11:00 am

- McLean Boulevard, Second Street to Seneca Street – north bound lanes only
- Seneca Street, Central Avenue to McLean Boulevard

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. II-7d

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Frosty 5K (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 sponsor Brittani Poland, Central Branch YMCA is coordinating the Frosty 5K with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure requests have been submitted:

Frosty 5K January 1, 2012, 10:00 am – 3:00 pm

- 3rd Street, Market Street to Waco Avenue.
- Waco Avenue, 3rd Street to 1st Street.

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Certificate of Liability Insurance on file with the Community Events Coordinator.

Agenda Item No. II-7e

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Waltzing Waters Dedication (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 Sharon Van Horn, Van Horn Promotion & Marketing, Inc. is coordinating the Waltzing Waters Dedication with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Waltzing Waters Dedication October 18, 2012 4:00 pm – 9:00 pm

- Water Walk Street, Wichita Street to Water Street
- Water Street, Dewey Street to Waterman

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No. II-7f

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Fall Festival and Military Salute (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 Sharon Van Horn, Van Horn Promotion & Marketing, Inc. is coordinating the Waltzing Waters Fall Festival and Military Salute with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Waltzing Waters Fall Festival and Military Salute October 20, 2012 5:00 pm – 9:00 pm

- Water Walk Street, Wichita Street to Water Street
- Water Street, Dewey Street to Waterman

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

Agenda Item No. II-7g

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Community Events – Tallgrass Film Festival Party (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closure.

Background: In accordance with the Community Events procedure the event promoter Tom Mittlestadt, Tallgrass Film Association is coordinating the Tallgrass Film Festival Party with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Tallgrass Film Festival Party October 18, 2012 9:00 am – October 21, 2012 11:59 pm

- First Street, Broadway Avenue to Topeka Street

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: There are no legal considerations.

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; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Pavement Marking Project (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the project.

Background: The Kansas Department of Transportation (KDOT) and the City of Wichita are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city connecting links of the State Highway System through the City. KDOT has a project budgeted to remove all deteriorated existing pavement markings and replace with new pavement markings on the following highways: I-135, I-235, US-54, K-96 and K-15.

Analysis: Pavement markings get worn off and need to be replaced periodically to maintain reflectivity.

Financial Considerations: The improvements will be made by the State with State funds. This agreement does not impact the City financially but is for information only that the State will be working within the City limits of the City of Wichita.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing needed street maintenance.

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

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

Attachments: Agreement.

PROJECT NO. 135-87 KA-2824-01
PAVEMENT MARKING PROJECT
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **MICHAEL S. KING, Secretary of Transportation**, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary has authorized a Pavement Marking Project, hereinafter referred to as the "Project." The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city connecting links of the State Highway System through the City. The Secretary desires to construct a Pavement Marking Project on I-135, I-235, US-54, K-96, and K-15. The City agrees to the Project in the City. The Secretary and the City desire to enter into an Agreement to make improvements to the state highway through the use of state funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of a Project for the improvement of I-135, I-235, US-54, K-96, and K-15, city connecting links of the State Highway System in the City and is described as follows:

Remove all deteriorated and existing pavement markings and replace with new pavement markings.

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. The Project shall be undertaken and completed by the Secretary except as otherwise modified by this Agreement.

2. In the name of the Secretary, to perform appraisal and acquisition work including condemnation, if necessary, for rights of way and easements as shown on the Project plans. All costs for rights of way and easements as shown on the Project plans will be paid for with state funds.

3. To receive and disburse all funds directly to the parties involved in acquisition of rights of way and easements.

4. To prepare the Project plans, let the contract for the Project and administer the construction of the Project, and administer the payments due the contractor.

5. All construction items included in the Project plans shall be paid for with state funds.

6. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the Secretary will defend, indemnify, hold harmless, and save the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the Secretary, the Secretary's employees, or subcontractors. The Secretary shall not be required to defend, indemnify, hold harmless, and save the City for negligent acts or omissions of the City or its authorized representatives or employees.

7. To require the contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

ARTICLE II

THE CITY AGREES:

1. It shall, by resolution, authorize the Secretary to undertake and complete the Project within the corporate limits of the City.

2. The Secretary shall have the right to utilize any land owned or controlled by the City, lying inside or outside the limits of the City as shown on the final design plans, for the purpose of constructing the highway Project. The Secretary shall not participate in the cost of these rights of way or easements, unless the Secretary determines the City will incur an unnecessary hardship. The City shall execute the appropriate deeds and easements transferring its property rights to the Secretary. Further, the City acknowledges the execution and transferring of the deeds and easements by the City to the Secretary is an obligation of the City for this Agreement and construction of the Project.

3. It will require the removal of all encroachments either on or above the limits of the rights of way as shown on the Project plans for this Project, for which movement is necessary for the construction of the Project in accordance with the final Project plans, and it will initiate and proceed with diligence to remove or require the removal of such encroachments. It is further agreed all such encroachments be removed before the Project is advertised for letting (provided, however, if the Secretary is satisfied, with respect to any encroachment, the physical removal thereof has been fully provided for between the City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, the Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). The

City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the rights of way of the Project, and it will require any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than 12 feet (3.7 meters) back of the right of way line. All rights of way provided for the Project shall be used solely for public highway purposes and no signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the rights of way limits except as provided by state laws.

4. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

5. To prohibit parking of vehicles on the city connecting link and on the acceleration and deceleration lanes of all connecting streets and highways and on additional portions of the connecting streets and highways the Secretary may deem necessary to permit free flowing traffic throughout the length of the improvement covered by this Agreement.

6. To maintain the control of access rights and to prohibit the construction or use of any entrance or access points along the Project other than those shown on the Project plans. The City agrees any exceptions therefrom must be approved by the Secretary.

7. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of the KDOT and all costs incurred by the City not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

8. To allow the contractor to work anytime during a twenty-four (24) hour period. The City and/or County agrees to grant all permits and licenses necessary to allow sound levels in excess of those set forth in local ordinances and/or to waive any and all local ordinances or restrictions on the contractor's working hours.

The construction contractor can work at any time allowed by Project specifications without restriction of noise levels. The City and/or County will notify the Secretary in writing at least one-hundred and twenty (120) days in advance of the Project letting of any desired restriction or restrictions necessary to comply with local ordinances to allow the Secretary to amend the Project specifications. The City and/or County agree to waive any and all local ordinances or restrictions to the contractor's working hours if a conflict occurs between the Project specifications and any and all local ordinances or restrictions.

ARTICLE III

THE PARTIES MUTUALLY AGREE:

1. Cities are, under certain circumstances, entitled to receive assistance in the financing of the construction and reconstruction of roads and streets, provided, however, in order to be eligible for such state aid, such work is required to be done in accordance with the laws of the State of Kansas.

2. The Secretary will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing structures, pole lines, pipe lines, meters, manholes and other utilities, publicly or privately owned, which may be necessary to construct the Project in accordance with the final design plans. New or existing utilities that have to be installed, moved or adjusted will be located or relocated in accordance with the current version of the Kansas Department of Transportation Utility Accommodation Policy (UAP), as amended or supplemented.

If the City has a population of less than 2,501 (based on the U.S. Bureau of Census-2010 Census), the Secretary agrees to be responsible for the expense to remove or adjust City owned utility facilities located on public rights of way as necessary to construct the Project in accordance with the final design plans. The payment of such expense by the Secretary shall be by a separate utility adjustment agreement between the Secretary and the City. If the City has a population of more than 2,500 (based on the U.S. Bureau of Census-2010 Census), the utility owners shall be responsible for the expense to remove or adjust all utility facilities on public rights of way as necessary to construct the Project in accordance with the final design plans. The expense of removal or adjustment of utility facilities located on private easements shall be reimbursed to the utility owners by the Secretary. The payment of such expense by the Secretary shall be by separate utility adjustment agreement between the Secretary and the utility owners.

3. The final design plans for the Project are by reference made a part of this Agreement.

4. They shall determine the manner in which traffic is to be handled during construction. It is therefore agreed between the parties before Project plans have been completed, detour routes and street closings, if necessary, shall be agreed upon by authorized representatives of the City and the Secretary, and noted on the Project plans. If revisions to the traffic handling plan are proposed during the progress of construction, the City and the Secretary shall approve such revisions before they become effective.

5. They have in the past entered into an agreement covering routine maintenance of the city connecting link, and it is the intention of the Secretary and the City the agreement for routine maintenance shall remain in full force and effect and the mileage set out thereon shall not be affected by this Agreement.

6. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, shall conform to the manual and specifications adopted under K.S.A. 8-2003 and any amendments thereto are incorporated by reference.

7. If, in the judgment of KDOT, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, KDOT may terminate this Agreement at the end of its current fiscal year. KDOT will participate in all costs approved by KDOT incurred prior to the termination of the Agreement.

8. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

9. The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev.

06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

10. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the City and their successors in office.

11. 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.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Kansas Department of Transportation
Michael S. King, Secretary of Transportation

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

APPROVED AS TO FORM:

GARY E. REBENSTORF
DIRECTOR OF LAW

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Broadway Bridge at 34th Street South-Behnke House (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendations: Approve the contract.

Background: On September 25, 2012, the City Council approved construction funding for replacement of the Broadway Bridge near 34th Street South. The new bridge will be located on the east side of the existing bridge, with four lanes of roadway, and six foot wide sidewalks on both sides of the bridge.

Analysis: By locating the new bridge on the east side of the existing bridge, the construction will encroach on a potentially historic structure (the Behnke house, 3565 South Topeka). This home is eligible for being registered with the State Historic Preservation Office (SHPO) as an historic structure, and will be re-located in its current state, as required by the Kansas Department of Transportation and the Federal Highway Administration so that federal funding for the bridge project is maintained. Staff has since worked with the SHPO and has found a suitable site to move the residence to be located approximately 500 feet to the north of its current location. On August 7, 2012, staff issued a Request for Proposal (RFP) to provide all services required to construct new basement foundation, extend existing utilities, and re-locate the house to its new location making what improvements are necessary to make the house code compliant, and safe to reside. The Staff Screening and Selection Committee (SSSC) conducted interviews with four firms; S&A Construction, Caro Construction, Sutherland Builders and MBI Group. After interviews were conducted, the SSSC selected Sutherland Builders based on qualifications and experience dealing with historical structures and preservation.

Financial Considerations: The cost for the re-location of the residence was included in the approved construction budget from general obligation bond funding. The cost of the relocation will be a cost plus fee not to exceed $345,000.

Goal Impact: This project addresses the Quality of Life goal by retaining citizens in the community.

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

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

Attachments: Contract.

AIA® Document A102™ – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Wichita
455 N. Main
Wichita, KS 67202

and the Contractor:
(Name, legal status, address and other information)

Sutherland Builders, Inc.
6053 S. Seneca
Wichita, KS 67217

for the following Project:
(Name, location and detailed description)

Behnke House Relocation
South Highway Bridge

The Architect:
(Name, legal status, address and other information)

GLMV Architecture, Inc.
1525 E. Douglas
Wichita, KS 67211

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is not intended for use in competitive bidding.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 RELATIONSHIP OF THE PARTIES

4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

5 CONTRACT SUM

6 CHANGES IN THE WORK

7 COSTS TO BE REIMBURSED

8 COSTS NOT TO BE REIMBURSED

9 DISCOUNTS, REBATES AND REFUNDS

10 SUBCONTRACTS AND OTHER AGREEMENTS

11 ACCOUNTING RECORDS

12 PAYMENTS

13 DISPUTE RESOLUTION

14 TERMINATION OR SUSPENSION

15 MISCELLANEOUS PROVISIONS

16 ENUMERATION OF CONTRACT DOCUMENTS

17 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

October 16, 2012

If, prior to commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

Ten (10) days for bond/insurance procurement.

§ 4.2 The Contract Time shall be measured from the date of commencement.

§ 4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than one hundred twenty (120) days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

(Table deleted)
, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time, or for bonus payments for early completion of the Work.)

ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.1 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)

Thirty-eight Thousand, Four Hundred Seventy-Five and no/100 Dollars ($38,475.00), based on ten percent (10%) of the Guaranteed Maximum Price (GMP).

§ 5.1.2 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Ten percent (10%) limit on overhead and profit for Change Orders.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed percent (%) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

(Table deleted)

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

§ 5.2 GUARANTEED MAXIMUM PRICE

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed Three Hundred Fifty Thousand and no/100 Dollars ($350,000.00), subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

§ 5.2.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

§ 5.2.3 Allowances included in the Guaranteed Maximum Price, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

(Table deleted)

§ 5.2.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ 5.2.5 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Contractor has provided in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 6.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

ARTICLE 7 COSTS TO BE REIMBURSED

§ 7.1 COST OF THE WORK

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.1.2 Where any cost is subject to the Owner's prior approval, the Contractor shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing this Agreement.

§ 7.2 LABOR COSTS

§ 7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.
(If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Cost of the Work, identify in Article 15, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 7.2.3 Wages and salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, with the Owner's prior approval.

§ 7.3 SUBCONTRACT COSTS

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

§ 7.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

§ 7.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

§ 7.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Contractor-owned item may not exceed the purchase price of any comparable item. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 MISCELLANEOUS COSTS

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

§ 7.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201–2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 7.6.6 Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

§ 7.6.7 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.9 Subject to the Owner's prior approval, expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work.

§ 7.6.10 That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 OTHER COSTS AND EMERGENCIES

§ 7.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.8 RELATED PARTY TRANSACTIONS

§ 7.8.1 For purposes of Section 7.8, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Article 10.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

§ 8.1 The Cost of the Work shall not include the items listed below:

- **.1** Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2. or as may be provided in Article 15;
- **.2** Expenses of the Contractor's principal office and offices other than the site office;
- **.3** Overhead and general expenses, except as may be expressly included in Article 7;
- **.4** The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- **.5** Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence or failure of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- **.6** Any cost not specifically and expressly described in Article 7; and
- **.7** Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

§ 9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Contractor and the Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.2 When a specific bidder (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 10.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Contractor shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11, below.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 12 PAYMENTS

§ 12.1 PROGRESS PAYMENTS

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the 15th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 25th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 12.1.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

§ 12.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Contractor's Fee, less retainage of five percent (5%).The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage from that portion of the Work that the Contractor self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 12.1.8 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 12.1.9 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 12.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 12.2 FINAL PAYMENT

§ 12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect.

§ 12.2.2 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 12.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section 12.2.2 supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 12.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201–2007. A request for mediation shall be made by

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

§ 12.2.4 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 12.2.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs described in Article 7 and not excluded by Article 8 to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Contractor has participated in savings as provided in Section 5.2, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

ARTICLE 13 DISPUTE RESOLUTION

§ 13.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to the Agreement, to serve as Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Jeff Myers, City of Wichita Project Manager, (316) 268-4406

§ 13.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[X] Arbitration pursuant to Section 15.4 of AIA Document A201–2007

[ ] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Subject to the provisions of Section 14.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 14.2 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2007, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A201–2007 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Contractor to the date of termination;

.2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

.3 Subtract the aggregate of previous payments made by the Owner.

§ 14.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

the Cost of the Work under Section 14.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 14.4 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1.1 and Section 6.4 of this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 15.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

%

§ 15.3 The Owner's representative:
(Name, address and other information)

Jeff Myers
Construction Superintendent
City of Wichita
455 N. Main Street
Wichita, KS 67202

§ 15.4 The Contractor's representative:
(Name, address and other information)

Paul Sutherland
Sutherland Builders, Inc.
6053 S. Seneca
Wichita, KS 67217

§ 15.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

§ 15.6 Other provisions:

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 16.1.1 The Agreement is this executed AIA Document A102–2007, Standard Form of Agreement Between Owner and Contractor.

§ 16.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 16.1.3 The Supplementary and other Conditions of the Contract:

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects. **All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

(Table deleted)

§ 16.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

(Table deleted)

§ 16.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Drawings dated September 26, 2012, produced by GLMV Architecture, Inc. for Behnke House Relocation, Project 12068.000.

(Table deleted)

§ 16.1.6 The Addenda, if any:

(Table deleted)

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 16.

§ 16.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

City of Wichita Request for Proposals (RFP) FP240057

ARTICLE 17 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of insurance or bond	Limit of liability or bond amount ($0.00)
Performance and Payment Bond	100 percent of the GMP

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.

User Notes:

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

Carl Brewer, Mayor
(Printed name and title)

CONTRACTOR *(Signature)*

Paul Sutherland, President
(Printed name and title)

Approved as to Form:

Gary Rebenstorf, City Attorney/Director of Law

Attest:

Karen Sublett, City Clerk

AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

Additions and Deletions Report for

AIA® Document A102™ – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:04:09 on 10/12/2012.

PAGE 1

City of Wichita
455 N. Main
Wichita, KS 67202

...

Sutherland Builders, Inc.
6053 S. Seneca
Wichita, KS 67217

...

Behnke House Relocation
South Highway Bridge

...

GLMV Architecture, Inc.
1525 E. Douglas
Wichita, KS 67211

PAGE 3

October 16, 2012

...

Ten (10) days for bond/insurance procurement.

...

§ 4.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ~~( )~~ one hundred twenty (120) days from the date of commencement, or as follows:

...

~~Portion of Work~~	~~Substantial Completion date~~

...

Additions and Deletions Report for AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

Thirty-eight Thousand, Four Hundred Seventy-Five and no/100 Dollars ($38,475.00), based on ten percent (10%) of the Guaranteed Maximum Price (GMP).

...

Ten percent (10%) limit on overhead and profit for Change Orders.

...

~~Item~~ ~~Units and Limitations~~ ~~Price Per Unit ($0.00)~~

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed ~~($),~~ Three Hundred Fifty Thousand and no/100 Dollars ($350,000.00), subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

PAGE 4

~~Item~~ ~~Price~~

PAGE 8

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the 15th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 25th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ~~( )~~ fifteen (15) days after the Architect receives the Application for Payment.

PAGE 9

.3 Add the Contractor's Fee, less retainage of ~~percent (%).The~~ five percent (5%).The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage ~~of percent (%)~~ from that portion of the Work that the Contractor self-performs;

PAGE 10

Jeff Myers, City of Wichita Project Manager, (316) 268-4406

...

[**X**] Arbitration pursuant to Section 15.4 of AIA Document A201–2007

PAGE 11

Jeff Myers
Construction Superintendent
City of Wichita
455 N. Main Street
Wichita, KS 67202

...

Additions and Deletions Report for AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

Paul Sutherland
Sutherland Builders, Inc.
6053 S. Seneca
Wichita, KS 67217

PAGE 12

~~Document~~	~~Title~~	~~Date~~	~~Pages~~

...

~~Section~~	~~Title~~	~~Date~~	~~Pages~~

...

Drawings dated September 26, 2012, produced by GLMV Architecture, Inc. for Behnke House Relocation, Project 12068.000.

~~Number~~	~~Title~~	~~Date~~

...

~~Number~~	~~Date~~	~~Pages~~

...

City of Wichita Request for Proposals (RFP) FP240057

...

Performance and Payment Bond 100 percent of the GMP

PAGE 13

Carl Brewer, Mayor Paul Sutherland, President

...

Additions and Deletions Report for AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

Approved as to Form:

Gary Rebenstorf, City Attorney/Director of Law

Attest:

Karen Sublett, City Clerk

Additions and Deletions Report for AIA Document A102™ – 2007 (formerly A111™ – 1997). Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997 and 2007 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes:

(846479700)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Bronda R. Boley, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:04:09 on 10/12/2012 under Order No. 4030146174_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A102™ – 2007, Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

_____

(Signed)

_____

(Title)

_____

(Dated)

AIA Document D401™ – 2003. Copyright © 1992 and 2003 by The American Institute of Architects**. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 13:04:09 on 10/12/2012 under Order No.4030146174_1 which expires on 07/11/2013, and is not for resale.
User Notes: (846479700)

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Supplemental Design Agreement No. 3 for Broadway Bridge at 34th Street South (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No. 3.

Background: On July 7, 2009, the City Council approved a design agreement with MKEC Engineering Consultants, Inc. (MKEC) to reconstruct the Broadway Bridge at 34th Street South. The approved design fee was $424,250. On June 5, 2012, the City Council approved Supplemental Agreement No. 1, in the amount of $69,685, for development of a site plan and re-plat of the area. On September 11, 2012, the City Council approved Supplemental Agreement No. 2, in the amount of $64,740, for preservation of a potentially historic structure (the Behnke house, 3565 South Topeka) located adjacent to the construction site. This brought the total design fee to $558,675.

The original design agreement authorized MKEC to select a technical specialist to perform geotechnical exploration and reporting for the proposed Broadway Bridge, project retaining walls, the temporary geosynthetic reinforced soil abutment, permanent and temporary roadway embankments, proposed detention pond, and the Behnke house basement and septic system. MKEC selected GSI Engineering, LLC, to perform the geotechnical services. The original agreement allotted $18,000 for these services.

Analysis: Supplemental Agreement No. 3 will provide additional design services required for the geotechnical exploration and reporting performed by GSI Engineering, and MKEC's administration of these services. This work is required for proper design of the bridge pier foundations.

State/Federal funding administered through the Kansas Department of Transportation will require standard agreements to be signed throughout the course of the project. Design needs may require the acquisition and/or granting of easements as well as utility relocation agreements and/or compensation for the same.

Financial Considerations: Payment to MKEC for Supplemental Design Agreement No. 3 is on a lump sum basis of $42,980. This fee includes GSI's fee of $58,400 to perform the necessary geotechnical investigations and prepare a report, $2,580 for MKEC's administration of GSI's services, less the $18,000 already included in the existing original agreement. The approved design fee to-date is $558,675. With this supplemental agreement, the total design fee for the Broadway Bridge reconstruction will be $601,655. Funding is available within the existing project budget.

Goal Impact: This project addresses the Efficient Infrastructure goal by replacing a deficient bridge on an important transportation route.

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

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

Attachments: Supplemental Agreement No. 3.

SUPPLEMENTAL AGREEMENT NO. 3

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED JULY 7, 2009

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

MKEC ENGINEERING CONSULTANTS, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated July 7, 2009) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the **BROADWAY BRIDGE AT 34TH STREET SOUTH IMPROVEMENTS** (Project No. 472 84830).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Additional Scope of Services for geotechnical services for
Broadway Bridge at 34th Street South
(see Exhibit "A-1")

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by **$42,980.00.**

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2012.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANTS, P.A.

_____

ATTEST:

_____

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Change Order No. 4- Lincoln Street Bridge and Dam Improvements (Districts III and IV)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve Change Order No. 4 and revised budget.

Background: On April 20, 2010, the City Council approved a design concept that provides for reconstruction of the Lincoln Street Bridge at its current location and construction of a new dam downstream from the bridge. The City Council also approved final design funding for the separate structures. On March 8, 2011, the City Council approved a construction contract with Dondlinger & Sons Construction Company, Inc. for improvements to the Lincoln Street Bridge and Dam. Construction started in March of 2011, with the Arkansas River being lowered immediately following River Festival 2011. The river water level was then required to be raised during River Festival 2012. Two storm events took place during the first week of festivities on May 30 and June 3. The intense rainfall, together with only partial operational control of the dam gates, caused a significant amount of wash out along the east side of the boat pass.

Analysis: The scope of proposed work will provide better long-term stability for the boat/fish pass during larger rain events. A change order has been prepared for the cost of the additional work. The additional work will include installing sheet pile, concrete and clay backfill material.

Financial Considerations: The cost of the additional work is $458,713. This change order, plus previous change orders represents 3.88% of the original contract amount. The approved budget is $15,110,000 with $9,600,000 funded by City General Obligation (GO) Bonds, $4,800,000 by Federal Transportation Funds, and $710,000 in reimbursable grants. It is proposed that the budget be increased $600,000, for a total budget of $15,710,000. It is proposed that the additional $600,000 come from available funds in the Broadway Bridge at 34th Street South project. Additional federal funds were obtained for the Broadway Bridge project, thus making available an offset in GO funds. The Council is asked to waive the "Use of Project Savings" policy that was approved with the Adopted 2009-2018 Capital Improvement Program to allow this to happen.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing improvements to an existing bridge and dam at the Arkansas River.

Legal Considerations: The Law Department has approved the change order as to form. The change order amount is within the 25% of contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve Change Order No. 4, waive the "Use of Project Savings" policy for this change order, approve the revised budget, and authorize the necessary signatures.

Attachments: Change Order No. 4.

PUBLIC WORKS-ENGINEERING

September 10, 2012

CHANGE ORDER

To: Dondlinger & Sons Construction Co., Inc.

Project: Lincoln Street Bridge & Dam Improvements over Arkansas River

Change Order No.: 4
Purchase Order No.:
CHARGE TO OCA No.: 715724

Projects No.: 87N-0361-01 / 472-84883
OCA No.: 715724
PPN: 249140

Please perform the following extra work at a cost not to exceed $458,713.00

Additional Work: Install additional sheet pile, concrete, and clay backfill material

Reason for Additional Work: The Arkansas River water level was required to be raised during River Festival 2012. Two storm events took place during the first week of festivities on May 30th and June 3rd. The intense rainfall caused a significant amount of wash out along the east side of the boat pass.

The scope of proposed work provided in the attached plan will provide better long-term stability for the boat/fish pass during larger rain events. Contractor's cost will be tracked on a force account basis. Final quantities and budget charges will be adjusted upon completion.

Item (Non-participating)	Negot'd/Bid	Qty		Unit Price	Extension
Sheet pile & concrete apron	Negot'd	1.0	LS	57,450.00	$57,450.00
Concrete wall under weir #8	Negot'd	1.0	LS	55,000.00	$55,000.00
Concrete plugs	Negot'd	1.0	LS	26,100.00	$26,100.00
Raise Wall D elevation	Negot'd	1.0	LS	33,000.00	$33,000.00
Clay backfill	Negot'd	1.0	LS	65,750.00	$65,750.00
Fish baffles	Negot'd	1.0	LS	85,800.00	$85,800.00
Level weirs and channelizers	Negot'd	1.0	LS	20,750.00	$20,750.00
Epoxy coating	Negot'd	1.0	LS	38,208.00	$38,208.00
Grouted rip rap repair	Negot'd	1.0	LS	35,000.00	$35,000.00
Wall D stabilization	Negot'd	1.0	LS	41,655.00	$41,655.00

CIP Budget Amount: $15,710,000.00

Consultant: MKEC
Total Exp. & Encum. To Date: $14,816,890.39
CO Amount: $458,713.00
Unencum. Bal. After CO: $434,396.61

Original Contract Amt.: $13,737,244.60

Current CO Amt.: $458,713.00
Amt. of Previous CO's: $74,800.00
Total of All CO's: $533,513.00
% of Orig. Contract / 25% Max.:3.88%
Adjusted Contract Amt.: $14,270,757.60

Recommended By:

Greg Baalman, P.E. Date
Construction Engineer

Approved:

Gary Janzen, P.E. Date
Interim City Engineer

Approved:

_____ _____
Contractor Date

Approved:

_____ _____
Alan King Date
Director of Public Works & Utilities

Approved as to Form:

_____ _____
Gary Rebenstorf Date
Director of Law

By Order of the City Council:

_____ _____
Carl Brewer Date
Mayor

Attest:_____
City Clerk

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council Members

SUBJECT: Repair or Removal of Dangerous & Unsafe Structure (District IV)

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendations: Adopt the attached resolution to schedule the required City Council public hearing to consider condemnation of the structure at 1818 South Shefford Circle, which has been deemed dangerous and unsafe per Kansas State Statutes.

Background: On October 1, 2012, the Board of Code Standards and Appeals conducted a hearing on the property listed below. The building on the property is considered a dangerous and unsafe structure per State Statutes and local ordinances, and is being presented in order to schedule a condemnation hearing before the City Council. The Board of Code Standards and Appeals has recommended that the City Council proceed with condemnation, demolition and removal of the dangerous building on this property.

Analysis: Minimum Housing Code violation notices have been issued on the structure; however, compliance has not been achieved. Pre-condemnation and formal condemnation letters have also been issued and the time granted for repair or removal has expired. No actions have been taken by the property owners and/or other interested parties to complete required building repairs or to remove the dangerous building.

Property Address	**Council District**
a. 1818 South Shefford Circle	IV

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional $500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods. Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The Law Department has reviewed and approved the resolution as to form.

Recommendations/Actions: It is recommended that the City Council adopt the attached resolutions to

schedule a public hearing before the City Council on December 4, 2012 at 9:30 a.m. or soon thereafter, to consider condemnation of structures deemed dangerous and unsafe per Kansas State Statutes and local ordinances.

Attachments: Letters to Council, summaries, and resolutions.

GROUP # 1

NOTICE OF DEMOLITION ACTION

This is to certify that the property located at **1818 S SHEFFORD CIR** and legally described as: **LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS**, is the subject of a demolition action by the City of Wichita, Kansas, under the provisions of Section 18.16 of the Code of the City of Wichita. Unless certain improvements to the structure(s) located thereon are commenced and completed by **December 4, 2012** such structures are subject to being demolished and the costs associated therewith charged, as a lien, against the above-described real property.

_____
Donte Martin, Interim Superintendent, Office of Central Inspection
City of Wichita

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED, That on this _____day of _____, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Donte Martin, Interim Superintendent of the Office of Central Inspection, City of Wichita, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

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

_____
Notary Public

My Appointment Expires:
_____

CITY OF WICHITA

TO: The Mayor and City Council
Wichita, Kansas

RE: Statement of Dangerous or Unsafe Structure

The following described structure is in a dangerous or unsafe condition:

(a) Description of Structure: A one-story frame dwelling about 20 x 24 feet in size. Vacant for at least 6 months, this structure has been badly damaged by fire. It has fire-damaged and missing composition siding; fire-damaged, sagging composition roof with holes; fire-damaged front porch; fire-damaged wood trim and framing members and the interior has been gutted by fire.

(b) Street Address: 1818 S SHEFFORD CIR

(c) Owners:
Paul R. Zachare
1402 Georgia
Wichita KS 67214

(d) Resident Agent: None

(e) Occupant: None

(f) Lienholders of Record:
Kelly Arnold, County Clerk
Sedgwick County Courthouse
525 N Main
Wichita KS 67203

Chris McElgunn, Attorney
301 N Main #1600
Wichita KS 67202

Truett Construction & Roofing
c/o Kurt A. Holmes PA Attorney at Law
445 N Waco
Wichita KS 67202

State of Kansas
Revenue Dept Tax Liens
915 SW Harrison
Topeka KS 66612

(g) Mortgage Holder(s): None

(h) Interested Parties:
Ownit Mortgage Solutions Inc
27349 Agoura Road Suite #100
Agoura Hills, CA 91301

HSBC Bank USA
PO Box 2013
Buffalo NY 14240

DATE: October 1, 2012

CDM SUMMARY

COUNCIL DISTRICT # IV

ADDRESS: 1818 S SHEFFORD CIR

LEGAL DESCRIPTION: LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one-story frame dwelling about 20 x 24 feet in size. Vacant for at least 6 months, this structure has been badly damaged by fire. It has fire-damaged and missing composition siding; fire-damaged, sagging composition roof with holes; fire-damaged front porch; fire-damaged wood trim and framing members and the interior has been gutted by fire.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

OCA: 230200

_____PUBLISHED IN THE WICHITA EAGLE ON_____
RESOLUTION NO. _____

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: **LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS** KNOWN AS **1818 S SHEFFORD CIR** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **16th day of October 2012**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.
That a hearing will be held on the **4th day of December 2012**, before the governing body of the city at **9:30 A.M.,** or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, known as: 1818 S SHEFFORD CIR, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story frame dwelling about 20 x 24 feet in size. Vacant for at least 6 months, this structure has been badly damaged by fire. It has fire-damaged and missing composition siding; fire-damaged, sagging composition roof with holes; fire-damaged front porch; fire-damaged wood trim and framing members and the interior has been gutted by fire.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **16th day of October 2012.**

_____
Carl Brewer, Mayor

(SEAL)

ATTEST:_____
Karen Sublett, City Clerk

OCA: 230200

PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 19, 2013 AND OCTOBER 26, 2012

RESOLUTION NO. 12-238

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF A HEARING BEFORE THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AT WHICH THE OWNER, HIS AGENT, LIENHOLDERS OF RECORD AND OCCUPANTS OF PROPERTY LEGALLY DESCRIBED AS: **LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS** KNOWN AS **1818 S SHEFFORD CIR** MAY APPEAR AND SHOW CAUSE WHY SUCH STRUCTURE SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED AS A DANGEROUS STRUCTURE.

WHEREAS, the enforcing officer of the City of Wichita, Kansas, did on the **16th day of October 2012**, file with the governing body of said city, a statement in writing that certain structure(s), hereinafter described, is unsafe or dangerous.

NOW THEREFORE, be it Resolved by the Governing Body of the City of Wichita.
That a hearing will be held on the **4th day of December 2012**, before the governing body of the city at **9:30 A.M.,** or thereafter in the council room, City Building at which time the owner, his agent, any lienholders of record or any occupant of property, legally described at LOT 12, BLOCK 5, LARK 3RD ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, known as: 1818 S SHEFFORD CIR, may appear and show cause why such structure should not be condemned as an unsafe or dangerous structure ordered repaired or demolished. The structure is a one-story frame dwelling about 20 x 24 feet in size. Vacant for at least 6 months, this structure has been badly damaged by fire. It has fire-damaged and missing composition siding; fire-damaged, sagging composition roof with holes; fire-damaged front porch; fire-damaged wood trim and framing members and the interior has been gutted by fire.

Be it further resolved that the City Clerk shall cause this Resolution to be published and shall give notice of the aforesaid hearing in the manner provided by K.S.A. 12-1752.

Adopted this **16th day of October 2012.**

_____
Carl Brewer, Mayor

(SEAL)

ATTEST:_____
Karen Sublett, City Clerk

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
SEPTEMBER 2012

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Body Armor Vests (Protective)	9/30/2013	Baysinger Police Supply, Inc.	Police	10/1/2011 - 9/30/2012	1 - 1 year option
Employee Assistance Program (EAP) Services	9/30/2013	EMPAC Inc.	Human Resources	10/1/2010 - 9/30/2011	2 - 1 year options
Indigent Defense Legal Services	9/30/2013	Cotton & Pittman LLC	Municipal Court	10/1/2010 - 9/30/2011	2 - 1 year options
Mat, Mop, Towel & Fender Cover Rental	9/30/2013	Aramark Uniform Services, a division of Aramark Uniform & Career Apparel, LLC	Various	10/1/2010 - 9/30/2011	Last option
Physicals, Hazardous Materials Team Physicals	9/30/2013	Via Christi Rehabilitation Center, Inc. dba Via Christi Occupational and Immediate Care	Fire/Police/Airport/ Human Resources	10/1/2010 - 9/30/2011	Last option
Pre-Sentence Investigation Reports	9/30/2013	Correctional Counseling of Kansas	Municipal Court	9/30/2011 - 9/19/2012	3 - 1 year options
Trash Carts and Collection Services - Housing & Community Services	9/30/2013	Waste Management of Kansas, Inc.	Housing & Community Services	10/1/2011 - 9/30/2012	1 - 1 year option
Water Heaters	9/30/2013	The Tap of Kansas, Inc.	Housing & Community Services	10/1/2011 - 9/30/2012	1 - 1 year option
Wichita Intervention Program Instructor	9/19/2013	Heartstone Substance Abuse Services	Municipal Court	9/20/2011 - 9/19/2012	3 - 1 year options

PROFESSIONAL CONTRACTS UNDER $25,000
SEPTEMBER 2012

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT

ANNUAL MAINTENANCE CONTRACTS OVER $25,000
DIRECT PURCHASE ORDERS FOR SEPTEMBER 2012

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
Sum Total Systems Inc.	DP240773	Software Maintenance/Support	$136,948.21

DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk

FROM: Gary E. Rebenstorf, Director of Law

SUBJECT: Report on Claims for August, 2012

DATE: September 18, 2012

The following claims were approved by the Law Department during the month of August 2012.

Baldwin, Kim	$1,627.94
Cox Communications	$ 224.70
Cox Communications	$ 268.57
Dandurand, Robert	$ 31.27
Gordon, Ceandra	$ 100.00
McGinn, Mark	$4,853.28**

*City Manager Approval
** Settled for lesser amount than claimed
***Settled for more than amount claimed

cc: Robert Layton, City Manager
Kelly Carpenter, Director of Finance

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Payment of Delinquent Taxes – 215 South Market (District 1)

INITIATED BY: Finance Department

AGENDA: Consent Agenda

Recommendation: Authorize the payment of delinquent ad valorem taxes and associated interest and penalties on City-owned property located at 215 S. Market.

Background: The City of Wichita acquired ownership of the land located at 215 S. Market in downtown Wichita in 1992 as part of the acquisition of the former Macy's department store in preparation for the conversion of the former department store into the Finney State Office Building. The City's ownership of the land at 215 S. Market is subject to a long-term ground lease to the owner of the 600-car parking structure that is located on the land. The ad valorem taxes on the subject property have not been paid in over three years and will be scheduled for tax foreclosure sale unless paid by November 30, 2012.

Analysis: The terms of the ground lease between the City of Wichita and Urban Investment Research Corporation of Chicago, Illinois requires the ground lease tenant to pay the ad valorem taxes on the land and building in a timely manner. If not so paid by the tenant, the ground lease allows the City to pay the taxes and add the amount paid by the City to the next monthly rent payment.

As of September 25, 2012 through October 20, 2012, the amount needed to bring current the ad valorem taxes on the subject property is $210,040.63 including all delinquent general taxes, assessments, interest and penalties. In order to avoid the property being scheduled for tax foreclosure sale, it is proposed that this amount be paid and added to the next monthly rent invoice to be paid by Urban Investment Research Corporation as additional rent.

Financial Considerations: The ground lease payments are $50,000 per year. Funds on hand from this source will be used to pay the delinquent taxes and associated costs in the amount of $210,040.63. Any funds received from the ground lease tenant as an additional rent payment will be used to reimburse the outlay of City funds.

Goal Impact: Core Area and Neighborhoods. The payment of delinquent taxes is necessary to protect the City's investment in critical downtown parking assets.

Legal Considerations: The proposed payment of delinquent taxes by the City and the subsequent recovery of such funds through an additional rent payment are provided for in the ground lease agreement.

Recommendations/Actions: It is recommended that the City Council authorize the payment of all outstanding ad valorem taxes, interest and penalties relating to property located at 215 South Market.

CITY OF WICHITA
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Approval of Offers for the 37th Street North – Broadway to Hydraulic Improvement Project (Districts VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the offers.

Background: On January 10, 2012, the City Council approved the design concept to improve 37th Street North from Broadway to Hydraulic. The project will require the partial acquisition of 27 tracts among 16 different owners. The tracts consist of commercial, industrial and warehouse uses as well as undeveloped land. The proposed road improvement will provide a three lane roadway. There will be one through lane in each direction and a center two-way left turn lane. The intersection of 37th Street and Hydraulic will be improved to provide wider turning radius for trucks and include a dedicated left turn lane on 37th Street. Drainage improvements will be constructed including the addition of a large concrete drainage culvert in the west portion of the project.

Analysis: As required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act, all tracts required for the project have been valued and just compensation established. Based on these valuations, the fair market value of the tracts to be acquired totals $74,100. The just compensation values will be offered to the various property owners. Any settlements in excess of the approved amounts will be presented to the City Council for final approval.

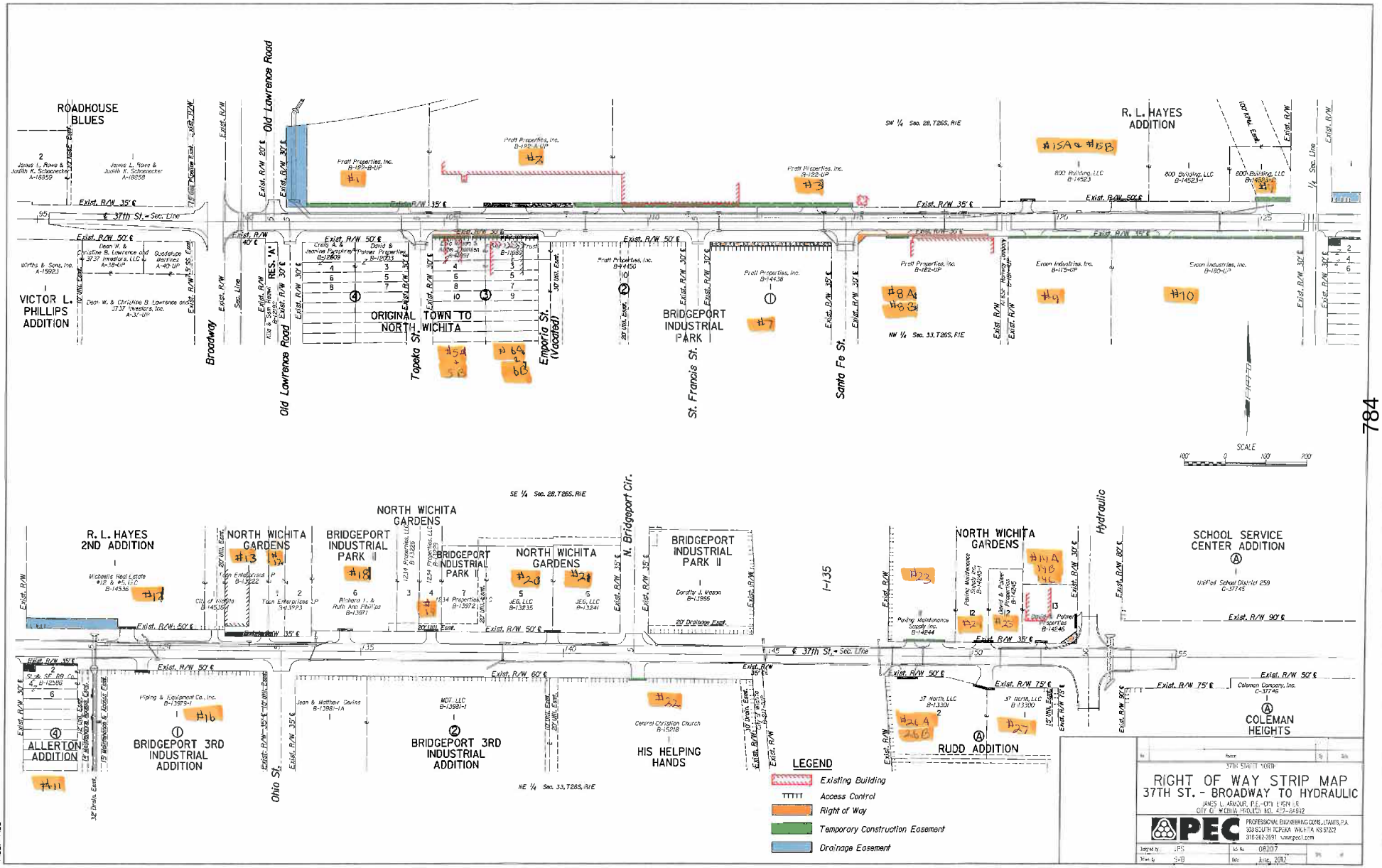
Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $85,000 is requested. This includes $74,100 for the acquisitions and $10,900 for title work, surveys, closing costs, and other administrative fees.

Goal Impact: The acquisition of these parcels is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: All agreements are subject to review and approval as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council 1) Approve the offers and; 2) Authorize the necessary signatures.

Attachments: Project map


ROADHOUSE BLUES
VICTOR L. PHILLIPS ADDITION
Broadway
Old Lawrence Road
ORIGINAL TOWN TO NORTH WICHITA
Topeka St.
Emporia St. (Vacated)
BRIDGEPORT INDUSTRIAL PARK
St. Francis St.
Santa Fe St.
R. L. HAYES ADDITION
SW ¼ Sec. 28, T26S, R1E
NW ¼ Sec. 33, T26S, R1E
SCALE
R. L. HAYES 2ND ADDITION
NORTH WICHITA GARDENS
BRIDGEPORT INDUSTRIAL PARK II
N. Bridgeport Cir.
SE ¼ Sec. 28, T26S, R1E
I-135
Hydraulic
SCHOOL SERVICE CENTER ADDITION
ALLERTON ADDITION
BRIDGEPORT 3RD INDUSTRIAL ADDITION
Ohio St.
HIS HELPING HANDS
RUDD ADDITION
COLEMAN HEIGHTS
NE ¼ Sec. 33, T26S, R1E
37TH STREET NORTH
RIGHT OF WAY STRIP MAP
37TH ST. - BROADWAY TO HYDRAULIC
JAMES L. ARMOUR, P.E.-CITY ENGINEER
CITY OF WICHITA PROJECT NO. 472-84912
PEC
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
303 SOUTH TOPEKA WICHITA, KS 67202
316-262-2691 www.pec1.com
Designed by: JPS
Drawn by: JHB
Job No. 08207
Date: June, 2012
LEGEND
Existing Building
Access Control
Right of Way
Temporary Construction Easement
Drainage Easement
Plotted By: $USERNAME$ Date: $DATE$ $TIME$
FILE: $FILE$

CITY OF WICHITA
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Quit Claim of Property in the 8900 Block of East Central (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the quit claim deeds.

Background: When the Forest Hills subdivision was platted, the plat included a frontage road parallel to Central. The median area between the frontage road and Central was designated as "park" on the plat. The westerly part of the frontage road, from Linden to West Parkway was never constructed. The road itself was vacated and incorporated into the adjacent lots. The owners of 8901 East Central and 2 West Parkway have asked the City to quit claim any rights the City might have in the "park" area to them.

Analysis: When platted, the tract in question was designated "park" on the plat but not dedicated to the public. Instead, the platting development company apparently retained ownership. This company has ceased to exist. The platted frontage road to the south has been vacated and absorbed by the adjacent properties. The subject tract is not part of road right of way and there are no utilities in the tract. It is also being utilized by the adjacent owners. As part of the quit claim, an easement allowing access to the creek on the east will be retained. While there is no evidence that the City has any claim to the property, the owners have asked that the City quit claim any rights to the tract to them. The owners also intend to file a quiet title action to clear any other clouds on title.

Financial Considerations: The approvals require no financial expenditure by the City nor do they impact any future revenues or expenses.

Goal Impact: Approving the deeds will help clean up the land record and will support Core Area and Neighborhoods by making land ownership clearer.

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

Recommendation/Action: It is recommended that the City Council approve the quit claim deeds and authorize all necessary signatures.

Attachments: Aerial, Survey and Quit Claim Deeds

AFTER RECORDING RETURN TO:
Ron H. Harnden
Triplett, Woolf & Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita, KS 67226

SEND TAX STATEMENTS TO:
_____
_____

QUITCLAIM DEED

City of Wichita ("Grantor"), quitclaims to Jeri G. Hinkle, a single person ("Grantee"), all of Grantor's right, title and interest, if any, in the following described interest in real property located in Wichita, Sedgwick County, Kansas, and more particularly described as follows:

> The East 150 feet of the West 600 feet of the 16 foot Platted park lying north of the Vacated Central Parkway adjoining on the north of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas, being more particularly described as follows:
>
> Commencing at a found ¾" iron pin at the Northwest Corner of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas; thence on the extended west line of said Lot 1, N00°50'08"W, 44 feet to a ½" bar capped TTLS on the said north line of the Vacated Central Parkway; thence along the north line of said Vacated Central Parkway, N89°15'34"E, 411.10 feet to a ½" rebar being the Point of Beginning; thence on the extended deeded line, N00°25'01"W, 16 feet to the north line of the Platted 16 foot park; thence along the north line of said Platted 16 foot park, N89°15'34"E, 150 feet; thence S00°25'01"E, 16 feet to a point on the North line of the Vacated Central Parkway; thence along the said north line of the Vacated Central Parkway, S89°15'34"W, 150 feet to the Point of Beginning ("Quitclaimed Property")

PROVIDED, HOWEVER, THE GRANTOR HEREBY RETAINS AN EASEMENT FOR INGRESS TO AND EGRESS FROM THE EASTERN 10 FEET OF THE QUITCLAIMED PROPERTY FOR ACCESS TO AND FROM A DRAINAGE AREA LOCATED EAST OF THE QUITCLAIMED PROPERTY (THE "RESERVATION AREA"). IN THE EVENT THE GRANTOR, ITS EMPLOYEES OR CONTRACTORS, OR THE EMPLOYEES OF SUCH CONTRACTORS, SHALL DAMAGE ANY LIVING VEGETATION LOCATED IN THE RESERVATION AREA OR OTHER REAL ESTATE CURRENTLY OWNED BY THE GRANTEE HEREUNDER, THE GRANTOR SHALL PROMPTLY REMOVE THE DAMAGED VEGETATION AND REPLACE IT WITH GOOD QUALITY, LIVING

THIS TRANSFER OF TITLE DOES NOT REQUIRE A SALES VALIDATION QUESTIONNAIRE AS IT WAS BY WAY OF A QUIT CLAIM DEED FILED FOR THE PURPOSES OF CLEARING TITLE ENCUMBRANCES (N0. 12).
#384384 09/17/12

VEGETATION OF THE SAME TYPE AND SUBSTANTIALLY THE SAME SIZE AND QUALITY OF THE DAMAGED VEGETATION AT GRANTOR'S COST AND EXPENSE.

This conveyance is made and accepted subject to easements of record or in place, rights-of-way, covenants, declarations, conditions and restrictions of record, liens for non delinquent taxes and/or special assessments, reservations of record, mortgages, liens, encumbrances, and other matters of record and existing leases and/or tenancies.

Executed as of the _____ day of _____, 2012.

GRANTOR:

City of Wichita

By:_____
Name:_____
Title:_____

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____, _____ of the City of Wichita.

_____
Notary Public

My appointment expires: _____

AFTER RECORDING RETURN TO:
Ron H. Harnden
Triplett, Woolf & Garretson, LLC
2959 N. Rock Road, Suite 300
Wichita, KS 67226

SEND TAX STATEMENTS TO:
_____
_____

QUITCLAIM DEED

City of Wichita ("Grantor"), quitclaims to William W. Hanna, Jon E. Hanna and The Commerce Trust Company, Co-Trustees of the Hanna Family Residence Trust ("Grantee"), all of Grantor's right, title and interest, if any, in the following described interest in real property located in Wichita, Sedgwick County, Kansas, and more particularly described as follows:

The East 410 feet of the West 450 feet of the 16 foot Platted park lying north of the Vacated Central Parkway adjoining on the north of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at a found ¾" iron pin at the Northwest Corner of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas; thence on the extended west line of said Lot 1, N00°50'08"W, 44 feet to a ½" bar capped TTLS on the said north line of the Vacated Central Parkway being the Point of Beginning; thence on the extended west line of said Lot 1, N00°50'08"W, 16 feet to the North line of the Platted 16 foot park; thence along the north line of said Platted 16 foot Park, N89°15'34"E, 411.21 feet; thence S00°25'01"E, 16 feet to a ½" rebar; thence along the said North line of the Vacated Central Parkway, S89°15'34"W, 411.10 feet, to the Point of Beginning.

Executed as of the _____ day of _____, 2012.

GRANTOR:

City of Wichita

By:_____
Name:_____
Title:_____

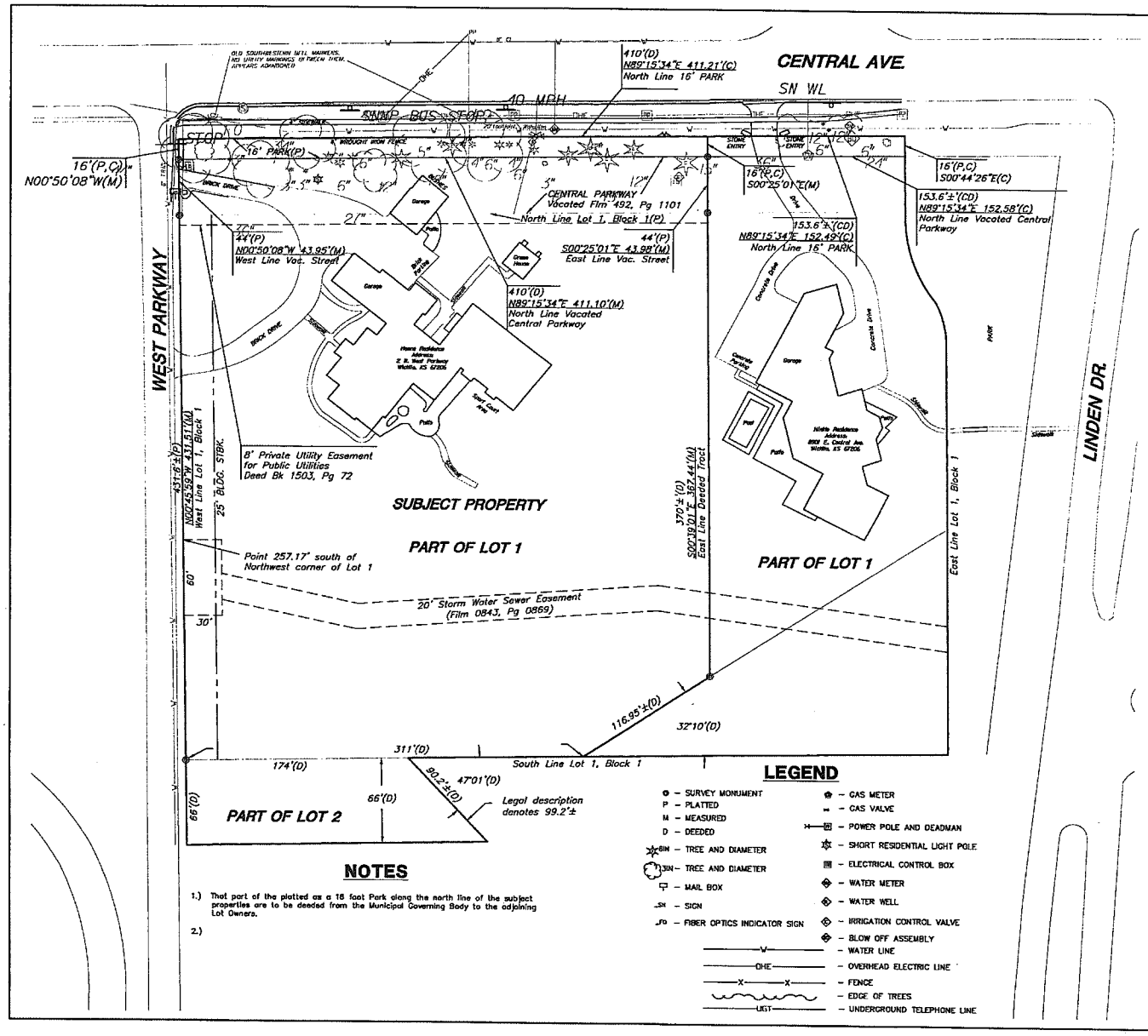
THIS TRANSFER OF TITLE DOES NOT REQUIRE A SALES VALIDATION QUESTIONNAIRE AS IT WAS BY WAY OF A QUIT CLAIM DEED FILED FOR THE PURPOSES OF CLEARING TITLE ENCUMBRANCES (N0. 12).
#384385 09/17/12

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____, _____ of the City of Wichita.

_____
Notary Public

My appointment expires: _____



LEGAL DESCRIPTION SUBJECT PROPERTY

Lot 1, Block 1, in Forest Hills, Sedgwick county, Kansas, EXCEPT that part thereof described as follows: Commencing at the Southwest corner of said lot; thence East on the South line of said lot, 311 feet; thence with a deflection angle to the left of 32°10', a distance of 116.95 feet, more or less, to a point 410 feet East of the West line of said lot, and the true point of beginning; thence continuing on the production of the previous course to the intersection with the East line of said lot; thence northerly, on the east line of said lot, to the Northeast corner there; thence west, on the North line of said lot, to a point 410 feet East of the Northwest corner thereof; thence South a distance of 370 feet, more or less, to the point of beginning, TOGETHER WITH that portion of vacated Central Parkway adjoining on the North, TOGETHER WITH all rights to utility easement over the North 8 feet of Lot 1 as set forth in warranty deed recorded at Book 1503, page 72, and lot split filed on Film 464, Page 1272; and EXCEPT that part thereof described as follows: Part of Lot 1, Block 1, Forest Hills, Sedgwick County, Kansas, described as commencing at the Southwest corner of said lot; thence East, along the South line of said lot, 311 feet for a place of beginning; thence northeasterly, with an angle to the left of 32°10' to a point on the east line of said lot; thence Southerly, along the East line of said lot, to the Southeast corner thereof; thence West, along the South line of said lot, to the place of beginning,

TOGETHER WITH,

That part of Lot 2, Block 1, Forest Hills, Sedgwick County, Kansas, described as Beginning at the Northwest corner of said Lot 2; thence East, along the North line of said Lot 2, 174 feet; thence with an angle to the right of 47°01', a distance of 99.2' feet more or less to a point 66 feet South of the North line of said Lot 2, as measured perpendicular; thence West parallel with the North line of said Lot 2, to a point on the West line of said Lot 2; thence North along the West line of said Lot 2, 66 feet to the point of beginning,

TOGETHER WITH,

The East 410 feet of the West 450 feet of the 16 foot Platted park lying north of the Vacated Central Parkway adjoining on the north of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at a found ¾" iron pin at the Northwest Corner of Lot 1, Block 1, Forest Hills Addition, Sedgwick County, Kansas; thence on the extended west line of said Lot 1, N00°50'08"W, 44 feet to a ½" bar capped TTLS on the said north line of the Vacated Central Parkway being the Point of Beginning; thence on the extended west line of said Lot 1, N00°50'08"W, 16 feet to the North line of the Platted 16 foot park; thence along the north line of said Platted 16 foot Park, N89°15'34"E, 411.21 feet; thence S00°25'01"E, 16 feet to a ½" rebar; thence along the said North line of the Vacated Central Parkway, S89°15'34"W, 411.10 feet, to the Point of Beginning.

CERTIFICATION

I, Curtis W. Luttrell, a Registered Land Surveyor in the State of Kansas do hereby certify that a Boundary and Topographic Survey was completed on the North line of the above-described property on April 13, 2012, under my direct supervision and that the accompanying plat is a true and correct representation of the survey to the best of my knowledge. This survey shows platted easements only.

Dated this 22 day of May, 2012

CURTIS W. LUTTRELL LICENSED 5/22/12 LS-1238 KANSAS LAND SURVEYOR

Curtis W. Luttrell R.L.S. 1238

BASIS OF BEARINGS

Kansas Coordinate System of 1983 South Zone Grid

N

1"=80'

NOTES

1.) That part of the platted as a 16 foot Park along the north line of the subject properties are to be deeded from the Municipal Governing Body to the adjoining Lot Owners.

2.)

LEGEND

- S – SURVEY MONUMENT
- P – PLATTED
- M – MEASURED
- D – DEEDED
- 6IN – TREE AND DIAMETER
- 3IN – TREE AND DIAMETER
- MB – MAIL BOX
- SN – SIGN
- FO – FIBER OPTICS INDICATOR SIGN
- GM – GAS METER
- GV – GAS VALVE
- PP – POWER POLE AND DEADMAN
- SL – SHORT RESIDENTIAL LIGHT POLE
- EC – ELECTRICAL CONTROL BOX
- WM – WATER METER
- WW – WATER WELL
- IV – IRRIGATION CONTROL VALVE
- BO – BLOW OFF ASSEMBLY
- W – WATER LINE
- OHE – OVERHEAD ELECTRIC LINE
- X – FENCE
- EOT – EDGE OF TREES
- UGT – UNDERGROUND TELEPHONE LINE

MKEC ENGINEERING CONSULTANTS
411 NORTH WEBB ROAD
WICHITA, KS 67206
316 - 684 - 9488

Hanna Property #2 N. West Parkway (PROJECT NAME)		
BOUNDARY / TOPOGRAPHIC SURVEY (SHEET TITLE)		
CWL (DESIGN BY)	DSN (DRAWN BY)	CWL (CHECKED BY)
MAY 2012 (DATE)	12238 (JOB NO.)	1 / 1 (SHEET/OF)

J:\PROJECTS\2012\12010238_TWG HANNA HINKLEY-SURVEY\DWG\TOPO\12238 TOPO.DWG

Tract to be Quit Claimed

- Property Parcels
- Roads
  - State Highway
  - US Federal Highway
  - Interstate
  - KTA
  - Arterial
  - Collector
  - Minor
  - Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Airports
- City Limits
  - Andale
  - Bel Aire
  - Bentley
  - Cheney
  - Clearwater
  - Colwich
  - Derby
  - Eastborough
  - Garden Plain
  - Goddard
  - Haysville
  - Kechi
  - Maize
  - Mount Hope
  - Mulvane
  - Park City
  - Sedgwick
  - Sedgwick County
  - Unincorporated
  - Valley Center
  - Viola
  - Wichita

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
October 16, 2012

TO: Mayor and City Council

SUBJECT: 2011 Community Services Block Grant Budget Adjustment

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the 2011 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

Background: Community Services Block Grant Funds (CSBG) are allocated through the U.S. Department of Health and Human Services (HHS), to support programs that meet the needs of persons with low incomes. In Kansas, CSBG funds are administered by the Kansas Housing Resources Corporation (KHRC) and are awarded by formula to Community Action Programs (CAPs) throughout the state. For over 30 years the City of Wichita has been a CAP and received CSBG funding for Wichita and Sedgwick County. The Career Development Office (CDO) of the Housing and Community Services Department administers the CSBG Program locally.

Funding is provided to the CDO following approval of an application to KHRC which designates categories of use for the funds. The City Council authorized staff to submit an application for the 2011 CSBG program on February 15, 2011. That application included an allocation of $300,000 for Project Access, which is a community agency that provides health care services for the uninsured. CSBG funds are used by Project Access to purchase prescriptions for persons who are examined and diagnosed by doctors who volunteer through the program. The KHRC awarded the City of Wichita $1,068,072 with a grant ending date of September 30, 2012, and CDO entered into a contract with Project Access for $300,000.

On September 11, 2012, Project Access staff notified the Career Development Division that they would not be able to spend $56,929 from their contract amount due to decreased enrollments.

Analysis: City staff proposes that the remaining funds be reallocated to support and expand a service offered by the Career Development Office, the Success Through Achievement and Responsibility (STAR) program. The STAR program is a two-week intensive job preparation program, followed by directed job search assistance and a 90-day retention focus. Services also include one-on-one case management and access to a computer lab for job search. Assistance is also provided to help participants overcome barriers to employment such as transportation (bus passes) and clothing (referrals to community partners). Participants are referred by the Kansas Department for Children and Families, and partner agencies within the community. Most participants have little to no job history and lack the confidence and experience necessary to successfully navigate employment systems.

Administrative Regulation 2.4 requires City Council approval of a budget adjustment of this nature. Staff is requesting authorization to move $56,929 from the Project Access contract to the STAR operating budget. Approval of this request will help offset the costs of the STAR program and perhaps provide for increased enrollment. Approval of this budget adjustment does not require re-submission to the KHRC.

Financial Considerations: No general operating funds from the City's budget are obligated by the budget adjustment.

Goal Impact: The programs supported by CSBG funds will Support a Dynamic Core Area and Vibrant Neighborhoods, Promote Economic Vitality and Affordable Living and Enhance the Quality of Life goals.

Legal Considerations: The Law Department has reviewed and approved the budget adjustment as to form.

Recommendation/Action: It is recommended that the City Council approve the 2011 Community Services Block Grant (CSBG) budget adjustment and authorize the necessary signatures.

Attachments: 2011 Community Services Block Grant budget adjustments

CITY OF WICHITA
FEDERAL, STATE AND FOUNDATION GRANT BUDGET FORM

Form No. 21-012 (2010)

E-print, scan or save as pdf and drag following documentation to Laserfiche/Performance/Grants/Your Department.
New Grant: Budget form, notice of award and grant agreement.
Budget revision: Revised budget form.
Name grant award file OCA# - Grant # Program Title (Rev # as appropriate)
Send voting email to Department Director and Budget Analyst. Set results to go to assigned Controller accountant.

OCA Title:	Client Services - CDO STAR	Formal Grant Title:	2011-CSBG-01
Grant period: From :	04/01/2011 To : 09/30/2012	Grantor Agency:	Kansas Housing Resources Corporation
Department #:	20	CFDA Number:	93.569
OCA #:	620103	HUD activity number#:	
Grant #:	820100	Federal/State Project #:	11-CSBG-01
Grant Detail#:	020300	CC Approval date:	02/15/2011

Set Expenditure Controls at (bold or box one) Object level 1 or **Expenditure Total** Expenditure Total will be utilized if no selection made.

Source of funding:	Object Level 3	Original Budget	Revisions Increase	Revisions Decrease	Revised Budget	Revision # 1
Federal contributions	8000				0.00	
State contributions	8030				0.00	
Federal to State	8062	312,000.00	56,929.00		368,929.00	
Federal to County	8090				0.00	
City - cash transfer	9800				0.00	
Private contributions	9713				0.00	
City - in-kind	9714				0.00	
REVENUE TOTAL		**312,000.00**	**56,929.00**	**0.00**	**368,929.00**	
Expenditures:						
Personal services (1xxx):						
Bi-Weekly Wages	1100	171,890.00			171,890.00	
F.I.C.A.	1400	13,150.00			13,150.00	
Employee Pension	1401	9,450.00			9,450.00	
Worker's Comp	1403	1,360.00			1,360.00	
Unemployment Comp	1404	340.00			340.00	
Group Health Insurance	1405	28,646.00			28,646.00	
Group Life Insurance	1406	340.00			340.00	
					0.00	
Total Personal Services		**225,176.00**	**0.00**	**0.00**	**225,176.00**	
Contractual services (2xxx):						
Meals - Lodging Allowance	2301	5,000.00			5,000.00	
Out-of-Town Registration	2302	5,000.00			5,000.00	
Data Center Charges	2600	40,000.00	26,929.00		66,929.00	
Printing & Photocopying	2917	4,720.00			4,720.00	
Other Contractuals	2999	13,000.00	30,000.00		43,000.00	
City Administrative Charge	2900				0.00	
Total Contractual Services		**67,720.00**	**56,929.00**	**0.00**	**124,649.00**	
Commodities (3xxx):						
Stationary Stores	3103	10,104.00			10,104.00	
Data Processing Equipment	3804	5,000.00			5,000.00	
Other Commodities	3999	4,000.00			4,000.00	
Total Commodities		**19,104.00**	**0.00**	**0.00**	**19,104.00**	
Capital outlay (4xxx):						
					0.00	
Total Capital Outlay		**0.00**	**0.00**	**0.00**	**0.00**	
Other (5xxx):		0.00			0.00	
In-kind expense	5306				0.00	
EXPENDITURE TOTAL		**312,000.00**	**56,929.00**	**0.00**	**368,929.00**	

Essentials

1. Council must approve the grant application and the grant award. Department Directors are not authorized to sign any grant.

FEDERAL, STATE AND FOUNDATION GRANT BUDGET FORM Form No. 21-012 (2009)

3. In-kind matches must be documented with each draw.
4. Funds must be spent (cash out the door) prior to a drawdown.
5. Required progress reports are the responsibility of the managing department.
6. Bidding must be competitive. ARRA funds must "Buy American".
7. City Administrative overhead is a required budget element for all grants.
8. Grant applications and grant awards are to be signed by the City Manager.

E-Civis (grants search engine)

Do the appropriate individuals in your department have access to the grant search engine?

E-civis is provided at no cost to the department. Expenditure Total be utilized if no selection made.

Contact Rob Raine (268-+4324) to get access to the eCivis Grant Locator System.

Grants.gov (federal grants search engine and e-application tool)

Do the appropriate individuals in your department have access to grants.gov?

Must obtain Grants.gov Authorized Applicant (AOR) designation ahead of time or will not be able to submit electronic grant applications in time to meet submittal deadline.

Call the Controller for access (268-4651)

FedConnect www.fedconnect.net)

Some opportunites for funds will come through FedConnect, which is a federal contractor site.

City Administrative Regulation 2.4-Preparation and Submittal of Federal and State Grants

FEDERAL, STATE AND FOUNDATION GRANT BUDGET FORM Form No. 21-012 (2010)

1. Grant application approved consistent with AR 2.4.

2. All Federal, State, foundation or local requirements are met prior to submitting the grant.

3. Administrative overhead must be a component of the budget unless prohibiited by the grant agreement.

After grant award has been received and approved, before purchasing or spending activities occur.

4. Obtain an OCA and grant number from the Controller's staff.

5. Prepare the budget form (Form 21-012) in EXCEL.
   Administrative overhead must be included an expense item in the budget.
   In-kind match must be recorded as a revenue and expense item in the grant budget.
   Electronically print/scan or save as pdf and drag the following documents directly into the **Laserfiche Performance Grants folder for your department.**

   Completed budget formed
   Award notice
   Grant agreement
   City Council minutes approving the grant
   The file naming structure is OCA number, Grant number and Program Title

6. Initiate voting option email to Department Director if the Director will be approving electronically and Budget Analyst with replies sent to the budget analyst and appropriate accountant.
   Subject line should read: Approve Grant, OCA # - Grant # - Program Title
   Message should read: Minimum message should be expenditure budget & total amount $ of award
   Alternate message: OCA # - Grant # Program Title and Revision #

7. The vote results of the Department Head and the Budget Analyst will be received by the individual designated to receive the replies.

   The Sender will receive the voting results, time and date stamped in their "Sent Items" Outlook folder.
   The Voting Results tab of this file shows how to view the vote.

8. The Controller's staff establishes the grant in Performance after reviewing the scanned documents and receiving the approving votes from the Department Head and Budget Office. No paper documents should be sent.

Before purchasing and spending may begin, federal environmental reviews must be completed by MAPD and submitted to the Grantor Agency.

9. All federal purchasing guidelines must be followed. Discuss any considerations of sole-source purchases with the Purchasing Manager, in advance.

Drawing reimbursements

10. **Draws can only be made on expenditures after the cash has left the City's banks.**
    Draws can not be made on the basis of encumbered funds.
    Draws should only be made from month-end reports.
    Draws should be made mid-month allowing for posted payments to flow from the City's bank.
    Draws should be made regularly to replenish the City's cash. (Usually monthly)
    Departments should monitor the posting of their receipts to insure accuracy.

11. Departments shall work with the Budget and Controller's office on cash matches.
    Departments must document in-kind matches in detail for each draw and enter the recording journal voucher.

Reporting

12. Departments are responsible for reporting requirements of the grant.
    The Controller's office will assist with financial information.

Grant Closeout

Departments are responsible for final grant closeout procedures in compliance with grantor agency rules.

CITY OF WICHITA
FEDERAL, STATE AND FOUNDATION GRANT BUDGET FORM

Form No. 21-012 (2010)

E-print, scan or save as pdf and drag following documentation to Laserfiche/Performance/Grants/Your Department.
New Grant: Budget form, notice of award and grant agreement.
Budget revision: Revised budget form.
Name grant award file OCA# - Grant # Program Title (Rev # as appropriate)
Send voting email to Department Director and Budget Analyst. Set results to go to assigned Controller accountant.

OCA Title:	Client Services - Project Access	Formal Grant Title:	2011-CSBG-01
Grant period: From :	04/01/2011 To : 09/30/2012	Grantor Agency:	Kansas Housing Resources Corporation
Department #:	20	CFDA Number:	93.569
OCA #:	620106	HUD activity number#:	
Grant #:	820100	Federal/State Project #:	11-CSBG-01
Grant Detail#:	020600	CC Approval date:	02/15/2011

Set Expenditure Controls at (bold or box one) Object level 1 or **Expenditure Total** Expenditure Total will be utilized if no selection made.

Source of funding:	Object Level 3	Original Budget	Revisions Increase	Revisions Decrease	Revised Budget	Revision # 1
Federal contributions	8000				0.00	
State contributions	8030				0.00	
Federal to State	8062	300,000.00		56,929.00	243,071.00	
Federal to County	8090				0.00	
City - cash transfer	9800				0.00	
Private contributions	9713				0.00	
City - in-kind	9714				0.00	
REVENUE TOTAL		**300,000.00**	**0.00**	**56,929.00**	**243,071.00**	
Expenditures:						
Personal services (1xxx):						
		0.00			0.00	
					0.00	
					0.00	
Total Personal Services		**0.00**	**0.00**	**0.00**	**0.00**	
Contractual services (2xxx):						
Other Professional Services (PA)	2599	300,000.00		56,929.00	243,071.00	
					0.00	
City Administrative Charge	2900				0.00	
Total Contractual Services		**300,000.00**	**0.00**	**56,929.00**	**243,071.00**	
Commodities (3xxx):						
		0.00			0.00	
					0.00	
					0.00	
Total Commodities		**0.00**	**0.00**	**0.00**	**0.00**	
Capital outlay (4xxx):						
		0.00			0.00	
					0.00	
					0.00	
Total Capital Outlay		**0.00**	**0.00**	**0.00**	**0.00**	
Other (5xxx):		0.00			0.00	
In-kind expense	5306				0.00	
EXPENDITURE TOTAL		**300,000.00**	**0.00**	**56,929.00**	**243,071.00**	

Position classification	Pay Range	Number Authorized	Annual Salary	Annual Benefits

(Use additional page if needed)

Department Director or Designee approval is required. Electronic approval acceptable.
Electronic approval from Budget Officer or Designee is required.

The highlighted message below shows voting results. Note the icon is different from other messages.
To view the voting results, open the message and view the second page.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: HOME Program: Housing Development Loan Program Funding (Districts I, III, IV, V, VI)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the funding Housing Development Loan Program allocation and authorize the necessary signatures.

Background: On May 1, 2012, the City Council approved final allocations under the 2012-2013 fourth program year action plan funding process, which included a total of $235,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding may be provided to non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) and Local Investment Areas (LIA), as described within the Neighborhood Revitalization Plan adopted by the City Council. Requests for funding under the program are received on an open application basis. The Housing and Community Services Department established $140,000 as the maximum funding amount available to any one applicant.

Analysis: HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant buyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of construction from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy (between $30,000 and $50,000) to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is $95,550 however lower values in existing neighborhoods in the City's targeted areas often results in homes being sold for less.

All homes constructed with HOME funding through the HDLP must be sold to owner-occupant, income-eligible home buyers who will receive down payment/closing cost assistance loans through the City's HOMEownership 80 Program.

Residential Housing Solutions (RHS) has submitted an HDLP application to finance construction of two homes on vacant lots located within the City's targeted areas. RHS is a for-profit developer and will use a local building contractor to construct the homes. RHS has identified sites and qualified buyers for each of the homes to be developed. The HOME program requires an environmental review prior to the start of a HOME-funded project. In this case the review determined that newly constructed homes at the proposed locations must be designed with a large front porch and a side-load garage at the rear of the structure. These requirements add to the cost of construction and when combined with predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing. In this case the development subsidy will be approximately $41,000 to $45,000.

The newly constructed homes will feature basements and two-car garages. Homebuyers will receive downpayment and closing cost assistance as well.

Financial Considerations: HOME funding for the proposed projects will be $90,739, and will be provided in the form of zero-interest, forgivable participation construction loans. Local banks will provide construction loans equivalent to 75% of the appraised value of each home to be constructed. The combined total cost of the proposed projects is estimated to be $266,409.

Goal Impact: The project funded under the subject HOME agreement will contribute to the City Council goals of Economic Vitality and Affordable Living, and Dynamic Core Area and Vibrant Neighborhoods.

Legal Considerations: The Law Department has reviewed and approved the funding agreements as to form.

Recommendations/Actions: It is recommended that the City Council approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

Attachments: Funding agreement.

FUNDING AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And

Residential Housing Solutions LLC

HOME Investment Partnerships
Program

2012 Housing Development Loan Program Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated October 16, 2012, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Residential Housing Solutions LLC (RHS, hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by July 31, 2014, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit

of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs 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 Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. 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, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this

contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded

under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, 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 Payment to the Developer will not exceed $90,739.00 as referenced in Exhibit B. Contract payments above $90,739.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, 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 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the

original application or environmental review; or new circumstances or environmental conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, 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 anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

(a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.

(b) Developer's financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 25. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 26. AFFORDABILITY- HOMEOWNERSHIP. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 27. AFFORDABILITY-RENTAL. Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period.

SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials (24 CFR 92.251), or be certified to be Energy Star compliant. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Residential Housing Solutions, LLC

_____
Signature

_____
Title of RHS Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Gary E. Rebenstorf, City Attorney Date
and Director of Law of the
City of Wichita

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.

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

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Residential Housing Solutions, LLC, hereinafter referred to as the "City" and "Developer" (or RHS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the $90,739.00 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of existing vacant homes or vacant lots located within the boundaries of any of the City's six Local Investment Areas, or within the boundaries of the City's Neighborhood Revitalization Area, or within the boundaries of the City's Redevelopment Incentives Area, with new single-family homes to be constructed on said sites. Existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days, and must be demolished with a new single-family home to be constructed on each site. Vacant lots owned by the Developer are eligible for development with funding provided under this agreement, provided they are located within a local investment area. Vacant lots must also be re-developed with a new single family home on each site. A total of two (2) new single-family homes are to be constructed/developed and sold to eligible owner-occupant homebuyers, unless a single-family home developed under this agreement must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit "B".

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii)of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

B. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects as approved on a case-by-case basis by the Department of Housing and Community Services.

Developer shall obtain construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 50% or more of the appraised value of the home to be constructed, as approved by the City.

III. Administration

The RHS President/C.E.O. will supervise operations and administration on a day-to-day basis. The RHS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to RHS for this project will be $90,739.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $90,739.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of completed homes. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

	$90,739.00
TOTAL	$90,739.00

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and RHS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. RHS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit

of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer within six months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the "Developer" shall become the "Owner", and the following additional requirements of this Section IV shall apply:

A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.

2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR 92.252, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

24 CFR 92.253, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

24 CFR 92.504, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

B. Initial rents for HOME-assisted units are as follows, per 2012 HUD guidelines:

2 Bedroom: $643 - $178 (Utility Allowance) = $465.00

3 Bedroom: $822 - $211 (Utility Allowance) = $611.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other electric appliances and electric lighting. Refrigerators and electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City.

D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to the City for review and approval, prior to lease-up.

E. The Owner shall maintain project/tenant records for a period of no less than five years.

F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.

G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions and covenants will be in force for the period of affordability, which is 20 years, beginning the date of project completion. Definition of project completion is

specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).

Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.

J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.

K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.

L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for the project. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period

3. Send notices of housing availability (using form approved by the City) to agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.

5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.

6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.

8. The Owner will provide, for the year ending June 30 of each year, beginning June 30, 2013, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2013, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

C. Additionally, a narrative or other description of progress may be provided.

D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in RHS (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, as specified in Section 16 of this contract, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.

G. The Developer will obtain any and all permits required by the City prior to undertaking construction.

H. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.

I. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

J. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

K. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

L. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.

M. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

VII. Other Program Requirements

A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.

B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing.

Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.

F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.

G. Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)	
	$90,739.00
TOTAL	$90,739.00

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Regional Fire Training Facility (District III)

INITIATED BY: Department of Public Works & Utilities
Fire Department

AGENDA: Consent

Recommendation: Adopt the amending resolution.

Background: On December 18, 2007, the City Council approved Resolution No. 07-733 for repairs and improvements to the Regional Fire Training Facility at 4780 E 31st Street South for $400,000. On April 21, 2009, the City Council approved amending Resolution No. 09-109 initiating $4.4 million to the Regional Fire Training Facility project. On November 23, 2010, the City Council approved amending Resolution No. 10-311 initiating $5.6 million for Phase II of the Regional Fire Training Facility. It was discovered that Resolution No. 10-311 incorrectly amended Resolution No. 07-733 instead of amending Resolution No. 09-109. An amending resolution has been prepared to correct this error.

Analysis: The project is an expansion of a Fire Training Facility into a Regional Training Facility.

Financial Considerations: The project budget remains as previously approved by the City Council.

Goal Impact: This project addresses the Safe and Secure Community goal by providing a training facility for fire fighters within the region to maintain community safety.

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

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

Attachments: Amending resolution.

792510

First Published in the Wichita Eagle on October 19, 2012

RESOLUTION NO. 12-237

A RESOLUTION AMENDING RESOLUTION NO. R-10-311 OF THE CITY OF WICHITA, KANSAS DETERMINING THE ADVISABILITY OF MAKING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS; SETTING FORTH THE GENERAL NATURE AND THE ESTIMATED COST OF SUCH IMPROVEMENTS; AND AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF WICHITA, KANSAS TO PAY ALL OR A PORTION OF THE COST THEREOF.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That Section 2 of Resolution No. R-07-733 of the City of Wichita, Kansas is hereby amended to read as follows:

Section 2: That the cost of said public improvements shall be paid by the issuance and sale of general obligation bonds by the City of Wichita at large, in the manner provided by law and under the authority of City of Wichita Charter Ordinance No. 156. The total cost is estimated not to exceed $5,600,000, exclusive of the cost of interest on borrowed money.

SECTION 2: That Resolution No. R-09-109 is hereby rescinded.

That Resolution No. R-10-311 is hereby rescinded.

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.

ADOPTED At Wichita, Kansas, this16th day of October, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Agreement for Continuing, Cooperative, and Comprehensive Transportation Planning (All Districts)

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendation: Approve the agreement.

Background: In accordance with federal legislation, Wichita Transit, the Kansas Department of Transportation (KDOT), and the Wichita Area Metropolitan Planning Organization (WAMPO) are responsible for providing a planning and programming process for the Metropolitan Planning Area. This agreement will replace the Memorandum of Understanding for Continuing, Cooperative, and Comprehensive Transportation Planning adopted in 2007.

Analysis: The agreement identifies the role and responsibility of each partner agency to meet federal legislation in transportation planning and programming for the Metropolitan Planning Area.

Financial Considerations: None

Goal Impact: To Ensure an Efficient and Effective Infrastructure by maintaining and optimizing public facilities and assets.

Legal Considerations: The Law Department has reviewed and approved the agreement as to form.

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

Attachments: Agreement for Continuing, Cooperative, and Comprehensive Transportation Planning.

Agreement

for Continuing, Cooperative, and Comprehensive Transportation Planning

Among

Wichita Area Metropolitan Planning Organization
Kansas Department of Transportation
Wichita Transit

This Cooperative Agreement (Agreement), entered into by and among the Secretary of Transportation for the State of Kansas (KDOT), the Wichita Metropolitan Planning Organization (WAMPO), and Wichita Transit, identifies and documents the roles and responsibilities for each of the partners in the continuing, cooperative, and comprehensive metropolitan planning and programming process.

WHEREAS, various federal and state grants and aids are available to WAMPO, KDOT, and Wichita Transit for carrying out metropolitan transportation planning activities; and

WHEREAS, metropolitan area boundaries, as defined as the Metropolitan Planning Area Boundary (MPAB) for purposes of the federal planning provisions have been determined by agreement between WAMPO and the Governor of Kansas;

WHEREAS, the WAMPO MPAB includes the Census Urban Area, Wichita, Kansas; Urban Area Census Code (UACE) 95077; and additional area representing growth potential during the duration of the WAMPO long-range transportation plan, which together comprise the WAMPO Urbanized Area; and

WHEREAS, KDOT is authorized to direct and expend state and federal aid for planning, promotion, and protection activities for all transportation modes, and whose charge is to carry out statewide transportation planning activities throughout the state as identified in 23 CFR 450 Subpart B; and

WHEREAS, WAMPO is the designated Metropolitan Planning Organization for the greater Wichita metropolitan area and whose charge is to carry out metropolitan transportation planning activities as identified in 23 CFR 450 Subpart C; and

WHEREAS, the City of Wichita, through its Wichita Transit department® (Wichita Transit) provides mass transportation activities within the Wichita, Kansas Urban Area; and is the designated recipient in the WAMPO region for federal transit operating aids under Section 5307 of the Federal Transit Act, as amended; and

WHEREAS, metropolitan transportation planning activities are done under the jurisdiction of the U.S. Department of Transportation (USDOT) and are subject to the metropolitan planning requirements of 23 USC 134 and Section 8 of the Federal Transit Act, as amended; and

NOW, THEREFORE, in consideration of these premises, and of their mutual and dependent needs, the parties hereto contract and agree as follows:

Article 1 PARTNERS

It is expected and agreed to that WAMPO, KDOT, and Wichita Transit are partners of equal stature, as defined in federal legislation, in providing regional transportation planning functions. Each partner is assigned responsibility under federal regulations and is required to execute that responsibility judiciously, fairly, and with consideration of the responsibility of each of the other planning partners attesting to this agreement.

Partners to this agreement will establish and maintain consistent lines of communication to discuss issues of mutual concern as it pertains to regional transportation planning. All agree to involve the others as early as possible in decision-making processes that may affect any of the other partners. Every effort should be made to include the other partners in the process of identifying and diagnosing problems before solutions and new policy are proposed that would affect one or more of the other partners.

Partners will be cognizant and respectful of the internal organization, structure, and administration of each of the other planning partners attesting to this agreement.

Kansas Department of Transportation

The Kansas Department of Transportation (KDOT) is a department within the State of Kansas established pursuant to Kansas Statute. KDOT is charged with administering federal transportation funds attributable to the State, Metropolitan Planning Organizations, and transit agencies.

Wichita Area Metropolitan Planning Organization

The Wichita Area Metropolitan Planning Organization (WAMPO) is the designated Metropolitan Planning Organization (MPO) and Transportation Management Area (TMA) for the greater Wichita, Kansas Urbanized Area. WAMPO is responsible for regional coordination of federal transportation funds and regional transportation planning within the WAMPO Transportation Study area, as defined by the Metropolitan Planning Area Boundary approved in existing agreement between WAMPO and KDOT. WAMPO is governed by a Transportation Policy Body (TPB).

Wichita Transit

Wichita Transit is a department of the City of Wichita, Kansas, and is responsible for providing general purpose and special public transportation services. Wichita Transit is the designated recipient for the Wichita, Kansas Urbanized Area and limits its operations to the Wichita city limits. Wichita Transit passes funds through to other local governments that operate public transit outside the Wichita city limits but within the Wichita, Kansas Urbanized Area, and contracts with other jurisdictions to directly provide transit services to those jurisdictions within the urbanized area.

Article 2 STATEMENT OF PURPOSE

WAMPO and KDOT, in cooperation with Wichita Transit, shall cooperatively undertake a continuing, comprehensive, and cooperative transportation planning and programming process for the metropolitan planning area in accordance with state and local goals for transportation planning, the provisions of 23 USC 134, 49 USC 5303, and 23 CFR Parts 450 and 500, and 49 CFR Part 613 as amended, and in accordance with the provisions of this Agreement.

Article 3 DEFINITION OF PRODUCTS, DOCUMENTS, PLANS, PROCESSES, ACTIVITIES

This section identifies those products, plans, processes, activities, and miscellaneous actions required by federal legislation for a Metropolitan Planning Organization (MPO), Transportation Management Area (TMA), State Department of Transportation, and local transit agency.

3.1 WAMPO

Metropolitan Transportation Plan (MTP), Transportation Improvement Program (TIP), Unified Planning Work Program (UPWP), Public Participation Plan (PPP), Regional Intelligent Transportation System Architecture (ITS Architecture), Planning Area Boundary, Urban Area Boundary, Technical Studies, Congestion Management Process, coordinated public participation activities with WAMPO planning partners, Title VI of the Civil Rights Act, Americans with Disabilities Act, and all other required products, documents, plans, processes, and activities.

3.2 KDOT

Statewide Transportation Improvement Program, Statewide Long Range Transportation Plan, Technical Studies, coordinated public participation activities with KDOT planning partners, and all other required products, documents, plans, processes, and activities.

3.3 Wichita Transit

Transit Development Plan (TDP), Transit section of the WAMPO long range transportation plan, coordinated public participation activities with Wichita Transit planning partners, Title VI of the Civil Rights Act, Americans with Disabilities Act, and all other required products, documents, plans, processes, and activities.

Article 4 GENERAL RESPONSIBILITIES

4.1 WAMPO

a) Maintain and execute all responsibilities for metropolitan transportation planning as identified in 23 CFR 450 Subpart C.
b) Maintain and execute all responsibilities related to the WAMPO Fiscal Agent (City of Wichita, Kansas).
c) Develop and maintain those items defined in Article 3.1 of this Agreement with the early consultation and review by KDOT and Wichita Transit.

4.2 KDOT

a) Maintain and execute all responsibilities for statewide transportation planning as identified in 23 CFR 450 Subpart B.
b) Develop and maintain those items defined in Article 3.2 of this Agreement with the early consultation and review by WAMPO and Wichita Transit.

4.3 Wichita Transit

a) Maintain and execute all responsibilities mandated for a transit agency as prescribed by USDOT, the State of Kansas, and the City of Wichita.
b) Develop and maintain those items defined in Article 3.3 of this Agreement with the early consultation and review by WAMPO and KDOT, when applicable.

Article 5 WAMPO SCOPE OF WORK

The cooperative transportation planning process shall be carried out in accordance with the WAMPO Unified Planning Work Program (UPWP) as approved annually by WAMPO, KDOT, and USDOT, in consultation with appropriate transportation providers, is incorporated by reference herein and made a part of this Agreement. The UPWP shall constitute the scope of work to be performed under this Agreement.

a) It is the intent of this Agreement that the Metropolitan Transportation Plan process appropriately address the eight (8) planning factors and six (6) plan elements as identified in 23 USC 134.
b) The UPWP shall set forth a description of the specific MPO transportation planning activities and products to be completed each calendar year, the corresponding staff and budgetary requirements, and the allocation of the total costs between the participating agencies. Total costs allocated to Wichita Transit must comply with the separate fiscal agreement for annual funding between WAMPO and its Fiscal Agent (City of Wichita).
c) Responsibility for the following planning activities shall be identified in the UPWP, where applicable:
   c.1. Preparing technical and other reports to assure documentation of the development, refinement, and reappraisal of the transportation plan; and
   c.2. Conducting detailed corridor or subarea studies to evaluate major transportation investment alternatives and their social, economic, and environmental impacts pursuant to 23 CFR 450.
d) Upon adoption of the UPWP by the WAMPO TPB and approval by KDOT and USDOT, KDOT shall provide written notice to authorize WAMPO to proceed with the UPWP in accordance with the terms and conditions of such approval (the "UPWP Approval Letter").
e) The approved UPWP may be amended during the course of the year at the discretion of the WAMPO TPB and is subject to the written approval of KDOT and USDOT and the availability of funding, if applicable.
f) The cooperative transportation planning process to be conducted under this Agreement and governed by the provisions of 23 CFR Parts 450 and 500 shall encompass the metropolitan planning area, as determined by agreement between the Governor (or designee) and WAMPO.

Article 6 ORGANIZATION AND ADMINISTRATION

a) The WAMPO TPB shall appoint and maintain such policy, citizen, and technical advisory committees as it deems appropriate to effectively carry out the comprehensive MPO transportation planning process under this Agreement. KDOT and Wichita Transit shall be represented on such policy and technical advisory committees and maintain voting rights as identified in the Redesignation Agreement of 2007 and WAMPO Transportation Policy Bylaws (2011) and subsequent agreements.
b) WAMPO may enter into such institutional arrangements, service contracts, or agency agreements as it deems necessary to carry out the scope of work under this Agreement with the understanding that WAMPO shall remain accountable for completion of planning products in accordance with the UPWP. All such contracts, subcontracts, agreements, or other written understandings for services shall conform to the appropriate provisions of 49 CFR 18 (common rule) as supplemented by 23 CFR 420 issued by the Federal Highway Administration (FHWA); Federal Transit Administration (FTA) Circular 4220.1F (11/01/08) and any changes or revisions thereto; and other applicable guidance KDOT, the designated WAMPO Fiscal Agent, FTA, FHWA, or USDOT may issue.

c) When consultants are to be employed in accomplishing work under this Agreement, all parties providing funding or technical support for such work shall have the right to review and advise on basic study methods and procedures and to review and approve contracts.

Article 7 INSPECTION OF WORK

KDOT and USDOT shall, at all times during the effective period of this Agreement, be accorded proper facilities for inspection of the transportation planning work activities and shall, in accordance with Article 13 (Records and Audits), have access to all data, information, records, and documents pertaining to the work under this Agreement.

Article 8 WORK PRODUCT

a) KDOT, WAMPO, and Wichita Transit shall give each other and applicable USDOT agencies ample opportunity to review and comment on their respective reports produced under this Agreement prior to publication of the final report.
b) KDOT, WAMPO, and Wichita Transit shall determine and agree upon an acceptable time frame to offer and return comments on their respective documents.
c) Final documents will be provided to each party in quantities and within a time frame agreed to by all parties involved.
d) All reports and documents published by all parties under this Agreement shall give credit to all other parties and to participating USDOT agencies.
e) All parties to this agreement and USDOT shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, distribute, or otherwise use, and to authorize others to use, the work produced under this Agreement for government purposes.

Article 9 PROHIBITED INTEREST

a) No member, officer, or employee of the WAMPO, KDOT, Wichita Transit, or local public body during his or her tenure or for one year thereafter may have or acquire any interest whatsoever, direct or indirect, in this Agreement or proceeds thereof or any benefit arising therefrom.
b) No member of or delegate to the Congress of the United States of America may have or acquire any interest whatsoever, direct or indirect, in this Agreement or proceeds thereof or any benefit arising herefrom.

Article 10 FUNDING AND PAYMENT

a) WAMPO and KDOT will annually cooperatively develop and execute a Consolidated Planning Grant (CPG) Agreement identifying federal transportation funds to be awarded to WAMPO and identifying the terms and conditions for award of such funds. For each subsequent fiscal year, the CPG Agreement for the next fiscal year shall be executed as promptly as the CPG development and review process will allow. Subject to appropriation of funds, all work performed by WAMPO in the interim between the expiration of the most current and newly executed CPG agreements will be covered under pre-award authority arranged by KDOT.
b) KDOT will provide annually to WAMPO federal funding targets for planning purposes and development of the draft UPWP for the following fiscal year. Such funding targets will be provided to WAMPO as they are developed and finalized by KDOT.
c) Funding levels and financial responsibilities for the continuing transportation planning process shall be negotiated annually in conjunction with the preparation, review and

approval of the UPWP, and shall consider such factors as the availability of federal planning monies and state and local matching funds, statewide allocation formulas developed in cooperation with MPOs, and the relative benefits to participating agencies. Upon adoption of the UPWP by the WAMPO TPB and approval by KDOT and USDOT, the UPWP shall be deemed to constitute a part of this Agreement with respect to the scope of work and funding arrangements, to the extent the UPWP complies with the separate fiscal agreement for annual funding between WAMPO and the City of Wichita. Specific terms or conditions governing the financial aspects of the UPWP will be set forth in KDOT's UPWP Approval Letter.

d) All costs incurred during the progress of the transportation planning work activities under this Agreement shall be shared by WAMPO and the other participating agencies on the basis of the cost allocation schedule set forth in the approved UPWP. KDOT's share of program costs, together with any USDOT share, which is administered by KDOT, will be made available to WAMPO following the receipt of a properly executed invoice and a detailed status of expenditures report in a format compatible with the approved UPWP. Progress reports containing a narrative and financial account of the work accomplished to date shall be furnished to KDOT by WAMPO at no greater than a quarterly interval. These reports shall be due 45 days after the end of the first, second and third quarters, and 60 days after the final quarter.

Article 11 COST PRINCIPLES

Allowable Costs.

Actual costs incurred by WAMPO under this Agreement shall be eligible for reimbursement provided the costs are:

1) Verifiable from WAMPO records;
2) Not included as match funds as prescribed by federal law or regulation for any other federally assisted program;
3) Necessary and reasonable for proper and efficient accomplishment of the approved UPWP;
4) In conformance with the standards for allowable costs set forth in 2 CFR 225, revised, and with applicable guidelines, regulations, or federal Agreement provisions issued by FHWA or FTA.
5) Not paid by the federal government under another assistance agreement unless authorized to be used as match funds under the other federal agreement and the laws and regulations governing such agreement;
6) Provided for in the approved UPWP budget.

Indirect Costs.

Expenditures charged on an indirect basis shall be supported by an indirect cost allocation plan and or indirect cost proposal. Such plans and proposals will be negotiated and approved by the cognizant federal agency prior to recovering any indirect costs included under this Agreement.

Article 12 PROPERTY UTILIZATION AND MANAGEMENT

WAMPO shall comply with the property management standards as set forth in 49 CPR 18.31, 18.32 and 18.33, as amended, and, if applicable, OMB Circular A-102, Attachment M, as amended.

Article 13 RECORDS AND AUDITS

a) WAMPO shall, for the program of continuing, comprehensive transportation planning and programming activities, maintain an accounting system that adequately accounts for all funds provided for, accruing to, or otherwise received from the federal, state and local units of government, or any other quasi-public or private source under this Agreement.
b) All eligible costs, including paid services and expenses contributed by WAMPO, shall be charged to the approved UPWP by WAMPO and shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. All accounting records and other evidence pertaining to the costs incurred by WAMPO under this Agreement shall be maintained by WAMPO and or by the designated WAMPO Fiscal Agent and shall be clearly identified and readily accessible. KDOT and USDOT shall have authority to audit, review, examine copy and transcribe any pertinent data, information, records or documents relating to this Agreement at any reasonable time. WAMPO shall retain all records and documents applicable to this Agreement for a period of not less than seven (7) years after final payment is made by KDOT.
c) WAMPO shall have, through its designated Fiscal Agent (City of Wichita), a single, organization-wide financial and compliance audit performed by a qualified, independent auditor if required to do so under federal laws and regulations. This audit shall be performed in accordance with OMB Circular A-133. A copy of the audit shall be furnished to KDOT. The cost of the audit is to be paid by the WAMPO Fiscal Agent (City of Wichita) and will be reimbursed by WAMPO with funds from the KDOT Consolidated Planning Grant.

Article 14 CERTIFICATION REGARDING LOBBYING

a) WAMPO certifies, by signing this Agreement, to the best of its knowledge and belief, that:
    1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
    2) If any funds other than Federal appropriated funds have been paid or will be paid to a Federal agency, a Member of Congress, an officer or employee of Congress, or loan, or cooperative agreement, the undersigned shall, pursuant to 31 USC 1352, complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC 1352.
c) WAMPO also agrees by signing this Agreement that it shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.

Article 15 EXPECTED ROLES AND RESPONSIBILITIES OF USDOT

While they are not direct parties to this agreement, it is the expectation of the parties that USDOT offices, particularly the Kansas Division Office of the Federal Highway Administration and the Regional Office of the Federal Transit Administration, will also participate as ex-officio

associates in the Wichita region's transportation planning process. USDOT offices are expected to participate as ex-officio, non-voting members of MPO transportation committees and the Transportation Policy Body; providing a federal perspective to the work of the MPO. USDOT offices are expected to ensure that any actions they take regarding plans, environmental studies, and investment projects within the region are consistent with decisions that have come out of the MPO process. USDOT offices are also expected to advise the MPO regarding any issues of compliance with federal regulations as work products are being developed and produced to ensure final products meet existing requirements. Additionally, USDOT is expected to complete its actions related to approving products of the MPO process in a timely manner, so as not to delay progress on significant transportation initiatives in the region.

Article 16 INDEMNIFICATION

Each party to this Agreement shall assume the risk of any liability arising from its own conduct. None of the parties agree to insure, defend, or indemnify the other.

Article 17 MISCELLANEOUS PROVISIONS

This Agreement is not intended to create any substantive rights or responsibilities for any party to this agreement over and above those created and conferred by federal law.

It is hereby 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.

Article 18 EFFECTIVE DATE AND DURATION OF AGREEMENT

a) This Agreement shall become effective upon execution by WAMPO, KDOT, and Wichita Transit and shall remain in force until terminated under provisions of Article 19 (Termination of Agreement), or until superseded by a new agreement.
b) This Agreement may be amended from time-to-time as facts, circumstances, or guidelines having the full force and effect of law dictate.

Article 19 TERMINATION OF AGREEMENT

WAMPO, KDOT, or Wichita Transit may terminate this Agreement by giving sixty (60) days written notice of such termination to the other parties. In the event of termination, WAMPO will be entitled to receive just and equitable compensation for any satisfactory work accomplished under this Agreement to the effective date of such termination.

Article 20 SEVERABILITY

Should any section, paragraph, sentence, or clause of this Agreement be deemed unlawful by a Court of competent jurisdiction, no other provision hereof shall be affected and all other provisions of this agreement shall continue in full force and effect.

Article 21 CONTRACTUAL PROVISIONS

The provisions found in Special Attachment No. 1 and Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached, are hereby incorporated in this Agreement and made a part hereof.

Article 22 SUPERSESSION OF PREVIOUS AGREEMENT

Adoption and execution of this Agreement thereby supersedes and replaces the April 16, 2007 Memorandum of Understanding for Continuing, Cooperative, and Comprehensive Transportation Planning among WAMPO, KDOT, and Wichita Transit.

The parties hereto execute this Agreement through their authorized representatives:

State of Kansas
Kansas Department of Transportation

By _____ _____
Secretary of Transportation Date

Metropolitan Planning Organization
Wichita Area Metropolitan Planning Organization

By _____ _____
Transportation Policy Body Chair Date

City of Wichita
Wichita Transit as a Department of the City of Wichita

By _____ _____
Mayor, City of Wichita, Kansas Date

The above instrument approved as to form
this 26th day of September 2012
Gary E. Rebenstorf / 9/17/12
City Attorney

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. 355) 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 ensure 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 "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "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 relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations 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 in the 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 Consultant complies, and/or

   (b) cancellation, termination or suspension of the contract, in whole or in part.

7) Disadvantaged Business Obligation

   (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete 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 Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant 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

   (a) 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 Executive Order 12898.

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.

State of Kansas
Department of Administration
DA-146a (Rev. 06-12)

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 provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), 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, said contract being the _____ day of _____, 20_____.

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. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in 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 the 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**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **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 Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   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 of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the 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 and its agencies 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 and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them 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 contractor shall bear the risk of any loss or damage to any property in which the contractor 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."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: Bylaws -- Wichita Transit Advisory Board (All Districts)

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendation: Approve the bylaws.

Background: In November of 2008, the Wichita City Council created the Wichita Transit Advisory Board. Its purpose is to advise the City Council on all matters relating to the operation of the transit system and what may be required for the effective and efficient regulation of transit activities within the City. Policy recommendations resulting from its deliberations are presented to the City Council for consideration and action utilizing appropriate procedures for agenda items.

Bylaws for the current board were first approved by the board in April, 2010. During the August, 2012, regular meeting of the advisory board, revised bylaws were voted on and approved unanimously. These are the bylaws the board wishes to present to the City Council for approval.

Analysis: The Transit Advisory Board is an advisory board and is charged with creating bylaws in accordance and compliance with the standard bylaws format of the City, which become effective when approved by the City Council. Bylaws may also cover other matters pertaining to the operation of the board that are not mandated by ordinance or administrative policy and procedures.

The proposed bylaws, as amended, conform to these requirements and are intended to use a process of attrition to bring the board to a manageable number of members. The current board configuration set by City Code 2.12.1136 calls for 21 members. It has proven extremely difficult to muster a quorum with such a large number of members. By enforcing the City Council's own attendance policy, the board intends to reduce its membership through attrition to a more functional number and, at the same time, retain those members most committed to its work. At such date as the number of participants reaches the target level, the board will approach the City Council with a proposed ordinance amendment that would permanently reduce the number of constituent board members.

Financial Considerations: None.

Goal Impact: To Ensure an Efficient and Effective Infrastructure by maintaining and optimizing public facilities and assets.

Legal Considerations: The Law Department has reviewed and approved the bylaws as to form. There is no legal requirement to fill vacant board positions, especially when that course of action has a rational public purpose.

Recommendations/Actions: It is recommended that the City Council approve the bylaws and authorize the necessary signatures.

Attachments: Bylaws

BYLAWS
WICHITA TRANSIT ADVISORY BOARD
CITY OF WICHITA, KANSAS

ARTICLE I

PURPOSE AND ORGANIZATION

SECTION 1. The purpose of the Wichita Transit Advisory Board (WTAB) shall be to advise the City Council and City Manager on matters relating to the operation and planning of the transit system within the City of Wichita and to recommend such changes as, in the opinion of the board, may be required for the effective and efficient provision of transit services within the City of Wichita.

SECTION 2. The Wichita Transit Advisory Board shall be composed of twenty-one (21) members appointed and approved by the Mayor and City Council to terms as provided in Section 2.12.020(1) of the City Code. Each Board member shall hold his or her office for a term of two (2) years and until their successor is appointed and qualified. No more than four (4) consecutive terms can be served. In the event of death, resignation or other disqualification of any member, his or her successor shall be appointed to fill only the unexpired term created by such vacancy. Twenty (20) members shall be residents of Sedgwick County and shall be appointed by the governing body of the City, provided that there shall be no more than eight members who are not residents of the City of Wichita. One member shall be nominated by the Wichita Access Advisory Board or its successor and appointed by the governing body of the City.

SECTION 3. Any member of the WTAB may be removed by the City Council for the same cause as any appointive officer and as provided by Section 2.12.020 (7) of the City Code. Members may be removed after any three (3) consecutive absences from regular board meetings or absences from any four (4) regular board meetings held within the preceding 12-month period that includes the most recent absence. This attendance policy is to be strictly enforced, and any such persons removed from the board are not to be replaced until membership is reduced to 15 members, to stabilize there.

SECTION 4. All members of the WTAB shall serve without compensation.

ARTICLE II

POWERS AND DUTIES OF THE BOARD

SECTION 1. The WTAB shall advise the City Council and City Manager on all matters relating to the operation and planning of the transit system within the City of Wichita.

SECTION 2. In all formal matters, the WTAB shall act by resolution, and all notices required by law to be given by publication shall be published in the official city paper.

SECTION 3. Before entering upon the duties of their office, the members of the WTAB shall subscribe to an oath of office.

ARTICLE III

MEETINGS OF THE BOARD

SECTION 1. Regular meetings of the WTAB shall be held the second Friday of each month at 10:00 AM at the Wichita Transit office conference room, 777 E. Waterman, Wichita, Kansas, unless otherwise specified. When the date of a regular meeting comes on a legal holiday, the Chairperson of the Board shall designate the date for the next regular meeting.

SECTION 2. The Director of Transit or designee shall prepare a notice of the meeting and an agenda of all matters to come before the meeting and mail the same to the WTAB members no later than noon (12:00 p.m.) the Monday preceding the next regular meeting. A copy of the agenda shall also be furnished to the City Manager's office. Any member of the WTAB may cause matters to be placed on the agenda by advising the Director of Transit no later than noon (12:00 p.m.) the Friday preceding the next regular meeting.

SECTION 3. Special meetings may be called by the WTAB Chair or any majority of the WTAB by giving notice at least twenty-four (24) hours in advance of said special meeting to all members of the WTAB. The object of the meeting shall be submitted to the WTAB in writing, and the call and the object, as well as the action of the WTAB thereon, shall be entered upon the records of the WTAB, and no other business shall be transacted except that mentioned in the call.

SECTION 4. A quorum shall consist of a majority of the members of the WTAB appointed and qualified at any given time. Business of the WTAB shall be conducted by majority vote of the members present once a quorum has been established.

SECTION 5. All meetings of the WTAB shall be conducted in accordance with Robert's Rules of Order except insofar as modified by these bylaws and the rules and procedures adopted by the WTAB.

ARTICLE IV

OFFICERS AND THEIR DUTIES

SECTION 1. The officers of the WTAB shall be as follows:

Chairperson, who shall be elected by the WTAB from its number and shall preside at all meetings of the WTAB and shall sign, execute, act, and deliver for the WTAB all documents of any kind required or authorized to be signed or delivered by said WTAB.

Chairperson Protem, who shall be elected by the WTAB from its number and, in the absence or disqualification or disability of the Chairperson, shall perform the duties of the Chairperson and act in place of the Chairperson, with the full power and authority which the Chairperson would have were the Chairperson present.

A full-time City employee designated by the Director of Wichita Transit shall be assigned to the WTAB for purposes of maintaining records and minutes and handling administrative matters without the right to vote or to perform any other function other than provide administrative services.

SECTION 2. The WTAB shall appoint such other officers as may be required by law or ordinance or as the business of the WTAB demands.

SECTION 3. An annual election of officers shall be held at the meeting held at the first meeting following August 1, and the officers so elected shall serve for a term of one (1) year and a maximum tenure of office not to exceed two (2) consecutive terms.

ARTICLE V

RULES AND PROCEDURES

The Board shall adopt appropriate rules and procedures for the conduct of meetings and for the transaction of the Board's business.

ARTICLE VI

AMENDMENTS TO BYLAWS

The WTAB may, by a two-thirds majority vote thereof, amend these bylaws or any provisions or sections thereof at any time when the same is not in conflict or contravention of any of the laws of the State of Kansas or ordinance of the City of Wichita applicable thereto. Any bylaw amendment modifying the authority of the WTAB is subject to City Council approval. Provided, however, that notice of the proposed amendments shall be furnished by the Secretary to the WTAB members not less than ten (10) days prior to the meeting at which said amendments are to be considered. A copy of the bylaws will be filed in the office of the City Clerk.

The above bylaws are hereby adopted as the Bylaws of the Wichita Transit Advisory Board of the City of Wichita, Kansas.

Dated this: _____ day of October, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form

_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
October 16, 2012

To: Mayor and City Council

Subject: 2012 Internet Crimes Against Children (ICAC) Grant and Agreement

Initiated by: Wichita Police Department

Agenda: Consent

Recommendation: Approve the continuation grant and Agreement.

Background: The City of Wichita Police Department, Sedgwick County Sheriff's Office and Department of Children and Families (DCF) have jointly operated an Exploited and Missing Child Unit (EMCU) since the mid 1980's. The mission of the unit is to investigate cases of missing and/or abused children, to identify offenders and to collect evidence for the prosecution of violators, all with the least amount of trauma to the child victims. The EMCU operation is based on a Memorandum of Understanding signed by the participating parties.

Analysis: Since 2002, the U.S. Department of Justice, Office of Juvenile Justice Programs (OJJP) has awarded an Internet Crimes Against Children (ICAC) grant to the Exploited and Missing Child Unit (EMCU). The grant is administered by Sedgwick County and provides funding for one Sheriff's Office detective and one Wichita Police Department detective assigned to the Exploited and Missing Child Unit (EMCU). Expenses covered by the grant also includes: vehicles, travel/training , equipment and supplies. The City of Wichita's share of the 2012 Internet Crimes Against Children (ICAC) grant award is $107,076 for salary/benefits for one detective position and associated vehicle costs.

Financial Considerations: Sedgwick County will reimburse the City of Wichita for salary and benefit costs for a Police detective position and related vehicle fleet costs, not to exceed $107,076 for a 12-month period ending June 30, 2013. No local grant match is required.

Goal Impact: Provide a Safe and Secure community by funding a detective position for the Exploited and Missing Child Unit and helping to educate and ensure the safety of children in our community.

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

Recommendations/Actions: It is recommended that the City Council approve the Internet Crimes Against Children (ICAC) Grant in the amount of $107,076 and the Agreement between the City of Wichita and Sedgwick County and authorize the necessary signatures.

Attachments: 2012 Agreement between the City of Wichita and Sedgwick County.

GMS APPLICATION NUMBER 2012-50211-KS-MC
OJJDP Cooperative Agreement Number 2010-MC-CX-K029

AGREEMENT
BETWEEN THE CITY OF WICHITA, KANSAS AND SEDGWICK COUNTY, KANSAS

2012 Kansas Internet Crimes Against Children (ICAC) Task Force Award

This Agreement is made and entered into this____day of_____, 2012, by and between Sedgwick County, Kansas, hereinafter referred to as COUNTY, and the CITY of Wichita, hereinafter referred to as CITY, both of Sedgwick County, State of Kansas.

Witnesseth:

WHEREAS, this Agreement is made under the authority of K.S.A. 12-2908, which authorizes municipalities to contract with other municipalities to perform any governmental service, activity or undertaking that each is authorized by law to perform; and

WHEREAS, COUNTY is the recipient of a grant award from the United States Department of Justice for funding the Internet Crimes Against Children (ICAC) program operated by the Exploited and Missing Children's Unit (EMCU); and

WHEREAS, included in the award budget is a City of Wichita Police Department detective salary and benefits and vehicle service charges totaling $107,076.83; and

WHEREAS, the COUNTY agrees to provide the CITY $107,076.83 from the ICAC award to cover staff and vehicle costs as identified the grant application budget excerpt (Attachment A): and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the ICAC funds; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

COUNTY agrees to pay CITY a total of $ 107,076.83 of ICAC funds.

Section 2.

CITY agrees to use $ 107,076.83 for the staff and vehicle costs related to the Internet Crimes Against Children Project until 6-30-2013.

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the Kansas Tort Claims Act.

Section 5.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF WICHITA, KANSAS

CARL BREWER, Mayor

ATTEST:

KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

GARY REBENSTORF, City Attorney

SEDGWICK COUNTY, KANSAS

TIM R. NORTON, Chairman
Commissioner, 2nd District

ATTEST:

KELLY ARNOLD, County Clerk

APPROVED AS TO FORM:

JENNIFER MAGANA
DEPUTY COUNTY COUNSELOR

Agenda Item No. II-24

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: 2013 & 2014 Kansas Night Time Seat Belt Enforcement Program

INITIATED BY: Wichita Police Department

AGENDA: Consent

Recommendation: Approve the application.

Background: Since 2003, the Wichita Police Department has participated in the Kansas Department of Transportation's Impaired Driving Deterrence Program and Special Traffic Enforcement Program, which provides overtime pay for officers enforcing Driving Under the Influence law. This will be the second year for Wichita Police Department to participate in the effectiveness of Night Time Seat Belt Enforcement and the impact it will have on the reduction of traffic fatalities and serious injuries in the community. The program is designed to help local law enforcement agencies dedicate time and resources to increase awareness of the dangers of not wearing seat belts after dark when a driver's chances of being involved in a critical collision increases. The program will emphasize enforcement efforts coupled with a public education and awareness component designed to increase seat belt use. The enforcement aspect of the program requires the utilization of monthly night time patrols which will stop drivers for primary seat belt violations. During the first year of the program the Police Department made contact with 491 drivers for the primary seat belt violation. As a result the Police Department issued 462 Adult Restraint Violations, 10 Child Violations (up to 13 years of age), 3 Youth Violations (14-17 years of age), 13 Driver's License Violations, 53 miscellaneous violations, and one DUI. The department also educated the public on the use of seatbelts as a way to reduce injuries and fatalities on our streets through the use of Public Service Announcements and by providing the media with results from each special project.

The grant application has already been signed by the City Manager and submitted in order to meet the deadline, pursuant to authority under Administrative Regulation 2.4, where delay would invalidate the grant.

Analysis: The Wichita Police Department has a comprehensive traffic safety plan that was implemented in conjunction with the reorganization of the Traffic Section that began in 2001. Participation in this program will allow the Police Department to supplement normal staffing and routine enforcement efforts with additional, dedicated traffic enforcement personnel.

Financial Considerations: The Kansas Department of Transportation will reimburse the Police Department for overtime incurred while performing the patrols. The grant application includes funding of $7,673 for 2013 and $8,089 for 2014. No local match is required.

Goal Impact: Provide a Safe and Secure community by placing an emphasis on the use of seat belts after dark to reduce the number of fatalities and serious injuries resulting from traffic collisions in our community.

Legal Considerations: The application was reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council review and ratify the grant application.

Attachments: Copy of completed application.

Application for Nighttime Seatbelt Enforcement Program

Kansas Department of Transportation, Bureau of Transportation Safety & Technology
Eisenhower State Office Building, 700 SW Harrison St.
Topeka, KS 66603

General Agency Information

Wichita Police Department	**Norman Williams, Police Chief**	**Lt. Joe Schroeder**
1. Name of Applicant Agency	7. Name of Agency Head	11. Name of Project Contact Person
455 N. Main / **Wichita** / **67202**	**316-268-4158**	**316-268-4144** / **N/A**
2. Mailing Address / 3. City / 4. Zip Code	8. Agency Head Phone #	12. Contact phone / 13. Cell Phone
Same	**316-858-7704**	**316-268-4105**
5. Street Address, if Post Office Box entered above	9. Agency Head FAX #	14. Contact Person Fax #
Robert Layton, City Manager	**nwilliams@wichita.gov**	**jschroeder@wichita.gov**
6. Person duly authorized to commit the city or county to contracts	10. Agency Head E-mail Address	15. Contact person E-Mail Address

Reimbursement Arrangements

16. Desired reimbursement method: *(if direct deposit, see instructions below)	X	Direct Deposit / Printed check
17. Reimbursement checks should be made payable to:	Wichita Police Department	
18. Reimbursement checks will be mailed to the address above unless a different one is entered below. Also any financial contact person for the grant is listed below.	Direct Deposit	
19. Federal Employee ID No. (FEIN):	48-6000653	
20. Data Universal Numbering System (DUNS) No.:	069320946	
21. System for Award Management (SAM) Expiration Date:	7/5/2013	

*If arrangements for direct deposit of grant reimbursements have not previously been made, contact Federal Aid and Project Accounting, KDOT, 700 SW Harrison, Topeka, 66603. Phone: (785) 296-3205, FAX: (785) 296-7927

KDOT AWARD INFORMATION

Length of Contract:	This Year:	10/1/2012	9/30/2013
	Full Period:	10/1/2012	9/30/2014
KDOT Assigned Contract No.:	OP 1472-13		
KDOT Assigned Funding Source	Section 405 Funds		
KDOT Assigned Local Benefit %	100% Local Benefit		

CPMS Prefix:	K	Vendor ID	

Approved Budget (From Page 2)

Expense	FY 2013	FY 2014
Personnel Services	$ 7,673.40	$ 8,089.20
Commodities		
Grant Amount	$ 7,673.40	$ 8,089.20

Required Applicant Signatures

I certify compliance with all criteria applicable for eligibility of the program and implementation in accordance with program requirements.

X [signature] 10-1-12
Authorizing City or County Official — Robert Layton, City Manager — Date

X [signature] 9-26-12
LE Agency Head: Norman Williams, Police Chief — Date

KDOT Approval

I approve of contract, as presently outlined by this document, the Highway Safety Program Agreement of which it is now a part, and other attachments to said Agreement.

X

Pete Bodyk, Bureau of Transportation Safety & Technology

Approved as to Form:
By: [signature]
By SW

Application for Nighttime Seatbelt Enforcement Program

Kansas Department of Transportation, Bureau of Transportation Safety & Technology
Eisenhower State Office Building, 700 SW Harrison St.
Topeka, KS 66603

Proposed Budget & Schedule of Nighttime SB Enforcement

October 1, 2012 thru September 30, 2013
Wichita Police Department

(1) Mobilization	(2) Day and Date (Question 24)	(3) Duration in Hours	(4) No. of Officers	(5) No. of Supv.	(6) Officer Wages (3 x 4 x Q21c)	(7) Supv Wages (3 x 5 x Q22c)	(8) Total Wages (6 + 7)
Nighttime SB Patrol 1	October	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 2	November	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 3	December	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 4	January	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 5	February	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 6	March	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 7	April	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 8	June	4.0	4	1	$648.00	$204.60	$852.60
Nighttime SB Patrol 9	July	4.0	4	1	$648.00	$204.60	$852.60
	Total estimated overtime hours:	180.0		Overtime Pay Total.....			$7,673.40

Overtime Rates for Col 6 & 7

Staff	(A) Base Hrly Pay	(B) Overtime Multiplier	(C) Overtime Pay Amt
Officers	$27.00	150%	$40.50
Supv	$34.10	150%	$51.15

Total Proposed Budget, FY 2013..... **$7,673.40**

KANSAS DEPARTMENT OF TRANSPORTATION
HIGHWAY SAFETY PROJECT AGREEMENT WITH A GOVERNMENT AGENCY
Nighttime Seatbelt Enforcement Program

PARTIES:
Michael S. King, Secretary of Transportation
Department of Transportation for the State of Kansas
Eisenhower State Office Building
700 SW Harrison Street
Topeka, KS 66603-3754

Hereinafter, referred to as the "Secretary."

and:

Wichita Police Department
Robert Layton, City Manager

Hereinafter, referred to as the "Project Agency."

Collectively, referred to as the "Parties."

PURPOSE:

To promote highway safety improvement. This highway safety improvement is identified by the project number and city or county listed above, hereinafter referred to as the "Project." The Project is further described in the Nighttime Seatbelt Enforcement Program (NSEP) application.

EFFECTIVE DATE:

The Parties shall be mutually obligated to perform in accordance with this Agreement as of **October 1, 2012.**

TERMS OF THE AGREEMENT

Article I - THE SECRETARY AGREES:

1) To reimburse the Project Agency for the added salary expense incurred in the performance of this Project Agreement in an amount not to exceed the annual amount provided in the NSEP application. This first year amount is: **$7,673.40.**

If this agreement is for two or more years, subsequent annual amounts will be reimbursed to the Project Agency through annual Notices to Proceed mailed to the above named official prior to the beginning of the subject year.

2) To reimburse the Project Agency for approved expenses not more than 30 days following receipt of required time sheets, invoices, and other accounting documents and activity reports as set forth in the NSEP application.

Article II - THE PROJECT AGENCY AGREES:

1) To furnish the necessary personnel, facilities, and such other professional services as may be required to perform the additional law enforcement patrol activities concerning Kansas seat belt, child passenger safety, and impaired driving laws in accordance with the NSEP campaign schedule issued by the Secretary.

2) To promptly begin the Project upon receipt of Secretary's written Notice to Proceed.

3) To complete the Project by **September 30, 2014**.

4) To prepare and deliver to the Secretary during and upon completion of the Project all reports as required by the Secretary.

5) To pay actual project costs prior to submitting any reimbursement claim to the Secretary. After the added salary costs have been incurred, the Project Agency shall submit reimbursement invoices to the Secretary.

6) Funds provided under this Agreement shall not supplant any salary expenditure provided for by the Project Agency's current budget.

7) The services to be performed by the Project Agency are personal and cannot be assigned, sublet, or transferred without consent of the Secretary.

8) To maintain accounting records, which shall be made available at all times during the agreement period and for five (5) years from the date of the final payment. The Secretary shall 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) Upon request from the Secretary, the Project Agency shall supply progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.

10) It is the policy of the Secretary to make any final payments to the Project Agency for services related to the Highway program in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Government and Non-Profit Organizations" in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule.)

The Secretary may pay any final amount due for the authorized work performed based upon the Project Agency's most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT's Bureau of Fiscal Services. The Project Agency, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The Project Agency agrees to refund payment made by the Secretary to the Project Agency for items subsequently found to be not eligible for reimbursement by audit.

11) If they have not already done so, the Project Agency shall obtain a Data Universal Number System (DUNS) number, which may be obtained from Dun and Bradstreet, Inc. (D & B) by telephone (currently 866-705-5711) or the Internet (currently http://fedgov.dnb.com/webform).

12) The Project Agency agrees it shall maintain current registrations in the System for Award Management (http://www.sam.gov) at all times during which they have active federal awards.

Article III - THE PARTIES AGREE:

1) Disputed matters arising under this Agreement that are not mutually resolved, shall be decided by the Secretary, whose decision shall be final and binding.

2) This Agreement, for any reason, may be terminated upon thirty (30) days written notice by either party; Provided, however, the Project Agency 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.

3) The NSEP application, Attachment 1, is incorporated by reference and made a part of this Agreement.

4) Attachment 2, pertaining to the implementation of the Civil Rights Act of 1964, is incorporated by reference and made a part hereof.

5) The Certification of the Project Agency, Attachment 3, is incorporated by reference and made a part hereof.

6) The provisions found in the Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto as Attachment 4, are hereby incorporated in this contract and made a part thereof.

7) If the total value of this agreement exceeds $100,000, a Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities will be included as Attachment 5 to this agreement and be incorporated by reference and made a part thereof.

8) This Agreement shall be binding upon the parties hereto and their successors and assigns.

9) 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

Revised 10/17/2011

KANSAS DEPARTMENT OF TRANSPORTATION

Michael S. King
Secretary of Transportation for
the State of Kansas

Approved as to Form:

By

859

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. 355) 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 ensure 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 "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "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 relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations 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 in the 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 Consultant complies, and/or

   (b) cancellation, termination or suspension of the contract, in whole or in part.

7) Disadvantaged Business Obligation

   (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete 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 Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant 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

   (a) 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 Executive Order 12898.

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.

(Revised 9/29/11)

State of Kansas
Department of Administration
DA-146a (Rev. 06-12)

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 provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), 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, said contract being the _____ day of _____, 20_____.

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. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in 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 the 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**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **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 Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   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 of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the 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 and its agencies 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 and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them 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 contractor shall bear the risk of any loss or damage to any property in which the contractor 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."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Agenda Item No. II-25

City of Wichita
City Council Meeting
(October 16, 2012)

To: Mayor and City Council

Subject: WAMPO Travel Demand Model Update and Metropolitan Transportation Plan Modeling Services Consultant Contract

Initiated By: Wichita Area Metropolitan Planning Organization (WAMPO)

Agenda: City Council (Consent)

Recommendation: Approve WAMPO consultant contract with Cambridge Systematics for the Travel Demand Model Update and Metropolitan Transportation Plan Modeling services, as fiscal agent for WAMPO.

Background: The WAMPO governing body, the Transportation Policy Body (TPB), approved this consultant project as part of WAMPO's 2012 Unified Planning Work Program (UPWP) on November 8, 2011. Procurement of these services followed the City of Wichita's Request For Proposals (RFP) procurement process, as per City of Wichita Administrative Regulation 1.2. Five proposals were received in response to the RFP. Cambridge Systematics was selected by the consultant selection committee as the preferred vendor for several reasons. The selection committee determined it presented the overall best proposal and consultant team to meet WAMPO's needs for this project, based on the evaluation criteria outlined in the RFP and scored by the committee. The committee was especially impressed by the level of detail in the Cambridge Systematics' proposal and its ability to provide outputs for other purposes.

Analysis: This project is expected to provide WAMPO with an updated and customized regional travel demand model and modeling services for use during the update to the Metropolitan Transportation Plan – the long range transportation plan for the greater Wichita region.

Financial Consideration: The City of Wichita is the fiscal agent for the WAMPO. As such, WAMPO is requesting the City provide $326,905 for professional consulting services to carry out the project. These funds will be reimbursed back to the City of Wichita through WAMPO's federal transportation planning grants.

Goal Impact: This plan promotes Economic Vitality and Efficient Infrastructure in the WAMPO region.

Legal Consideration: The Law Department reviewed and approved the contract as to form.

Recommendation/Actions: It is recommended that the City Council approve the selection of Cambridge Systematics to complete the Travel Demand Model Update and Metropolitan Transportation Plan Modeling Services project and authorize the necessary signatures to execute the contract as the fiscal agent for the WAMPO.

Attachment: Consultant contract

AGREEMENT FOR PROFESSIONAL SERVICES

Travel Demand Model Update and Metropolitan Transportation Plan Modeling Consultant Agreement

THIS AGREEMENT made and entered into this ____ day of _____, 2012, by and between the Wichita Area Metropolitan Planning Organization, (hereinafter referred to as "the Client"), and Cambridge Systematics, Inc., (hereinafter referred to as "the Consultant").

WHEREAS, the Client wants to contract for services to update the WAMPO travel demand model and provide modeling support for the Metropolitan Transportation Plan update, has publicly solicited proposals for the same, and the Consultant has presented the best combination of services and price from among the vendors presenting proposals. Therefore, the Client wishes to contract with the Consultant for those services. The Agreement is financed in part with funding from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). The services performed under any resulting agreement shall comply with all federal, state and the City of Wichita laws and regulations. In addition, this Agreement will be subject to the requirements of 49 CFR 18 and cost eligibility reimbursement will be subject to 48 CFR 31.2; and

WHEREAS, the Consultant has the knowledge, experience and expertise in transportation planning to undertake this Project on behalf of the Client; and

WHEREAS, the Client desires to retain the services of the Consultant to provide support in the development and completion of the Travel Demand Model Update and Metropolitan Transportation Plan Modeling Project and has chosen Consultant after a competitive selection process:

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DESCRIPTION OF SERVICES. The Consultant will provide the services and deliver the documents required to complete the Travel Demand Model Update and Metropolitan Transportation Plan Modeling Project as outlined in the Scope of Services set forth in Exhibit C and as follows.

- **A.** To make available during regular office hours, all calculations, maps, drawings, and all other appropriate forms of representation such as the Client may wish to examine periodically during performance of this Agreement.
- **B.** To attend meetings with the Client and other local, state and federal agencies as necessitated by the Scope of Services as set forth in Exhibit C, which by this reference is incorporated and made a part of this Agreement.
- **C.** To save and hold the Client harmless against all suits, claims, and losses arising from or caused by errors, omissions or negligent acts of the Consultant, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Agreement.
- **D.** To maintain books, documents, papers, accounting records, and other evidence pertaining to costs incurred by the Consultant and, where relevant to method of payment, to make such material available to the Client.
- **E.** To comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964.
- **F.** To be responsible for the professional and technical accuracies and the coordination of all designs, maps and presentation, drawings, specifications, plans and/or other work or material furnished by the Consultant under this Agreement. The Consultant further agrees that all designs, drawings, specifications, plans, and other work or material furnished by the Consultant,

its agents, employees and subcontractors, under this Agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

2. PERFORMANCE OF SERVICES. The Consultant shall determine the manner in which its services hereunder are to be performed and the specific hours to be worked in performing such services; provided, the Consultant will provide requested services and delivered documents as agreed between the Client and the Consultant in Exhibit C.

3. PROMPT PAYMENT. The Client will compensate upon finding that services and deliverables provided by the Consultant are acceptable under the terms of the Agreement for the direct hours worked by the Consultant's employee(s) at the rates set forth in Exhibit D, Fee Schedule, which by this reference is incorporated and made a part of this Agreement. The Client will compensate the Consultant upon finding that costs are acceptable under the terms of the Agreement for material and other direct costs specified in the Scope of Services and for reasonable expenses, including travel, incurred as a direct result of the Consultant's performance of services. The actual cost shall be incurred in conformity with the cost principles established in 48 CFR 31 et seq. Unless acceptable by the Client, the maximum cost not-to-exceed dollar amount for the compensation for services and expenses detailed in this Agreement is $326,905. During the progress of work covered by this Agreement, payments will be made to the Consultant at intervals of 30 days based on the statements provided by the Consultant itemizing the number of hours of work performed, the percentage of the services hereunder completed and in compliance with the Fee Schedule as set forth in Exhibit D, a copy of which is attached hereto and incorporated herein by reference. The Client will make payment within 30 calendar days of a reconciled and approved invoice reflecting deliverables as outlined by the scope of work. The Consultant will negotiate with the Client if there are any changes in deliverable dates. Furthermore, the Consultant shall make payment to subconsultant(s) under contract on this project within 10 days of receiving payment from WAMPO. The Consultant will provide proof of payment to subconsultant(s) to WAMPO.

In addition, the Consultant agrees that;

- **A.** The reimbursement for the professional services required by this Agreement will be based on the Consultant's actual costs, which can be less than the estimated amount. If additional work should be necessary, the Client will negotiate with the Consultant if there are any changes in the deliverables. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the Client and the Consultant.
- **B.** The Client will inform the Consultant within 45 days of any dissatisfaction with deliverables or invoicing and will reimburse to the Consultant any withheld payment upon completion of the associated work effort to the Client's satisfaction.
- **C.** The Client may withhold reimbursement of payment at the end of each 30-day cycle in the situation where deliverables applicable to the invoiced amount get delayed by more than two weeks without the Client's approval and such delay is caused by the acts or omissions of the Consultant and/or its subconsultants. Any payment withheld will be proportional to a reasonable estimate of the work effort that may be delayed. Reimbursement will be made promptly upon completion of the associated services to the satisfaction of the Client. The Consultant will not be responsible or held liable for delays occasioned by the actions or inactions on the part of the Client or for other unavoidable delays beyond the control of the Consultant.
- **D.** At scheduled project meetings the Consultant will review with the Client the Consultant's progress with regard to both completed and ongoing work efforts. Progress will be assessed with regard to the status of completion of deliverables that are ongoing and the Consultant's efforts to resolve issues that may affect schedule. Deliverables as identified within the Scope of Services will be discussed as well as any known project issues that may be beyond the control of

the Consultant that could affect the schedule. The Client may withhold payment in part or in whole for services not completed or for which work progress is not proportional to the level of effort invoiced. Any withheld payment will be proportional to the effort deemed necessary to bring the associated tasks or deliverables up to the level of effort that has been invoiced.

4. CASH BASIS AND BUDGET LAWS. The right of the Client to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the Client shall at all times stay in conformity with such laws, and as a condition of this Agreement the Client reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

5. INDEMNIFICATION AGREEMENT. The Consultant shall be responsible for personal or bodily injury or tangible property damage as a result of any services and/or goods rendered by the Consultant or subconsultants under the terms and conditions of the Agreement. In addition to the foregoing liability imposed upon the Consultant on the account of personal injury, bodily injury; including death or property damage suffered as a result of the Consultant performance under the Agreement, the Consultant assumes the obligation to indemnify, hold harmless and save WAMPO, including its agents, employees and assigns from every expense, suits, judgments, liability, payment or any claim to the extent arising out of such negligent act by the Consultant or subconsultants, including legal fees. The Consultant also agrees to hold WAMPO, including its agents, employees and assigns, harmless from any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Consultant for any purpose under this Agreement. The Consultant shall not be supervising WAMPO, its agents, employees, or assigns for any purpose under this Agreement.

6. TERM/TERMINATION. This Agreement shall run for the life of the project effective the date of the final signature of this Agreement. This Agreement shall terminate upon the satisfactory completion by the Consultant of the services and documents required to be provided hereunder, or at any time upon 20 days written notice of cancellation by the Client. Upon receipt of such notice of termination the Consultant shall discontinue and cause all such work to terminate upon the date specified in the notice from the Client. The Consultant will be entitled to compensation for actual effort performed up to the date of termination. Any invoice for completed work or termination claim must be submitted to the Client within sixty (60) days after the effective date of termination. In the event of termination, such information prepared by the Consultant to carry out this Agreement, including data, studies, surveys, records, drawings, maps and reports shall, at the option of the Client, become the property of the Client and be immediately turned over to the Client. The Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. PROPRIETARY MATERIALS. Upon the successful completion of Agreement, all data provided by the Client, and any new data collected by the Consultant under this Agreement will be returned to the Client. The Consultant agrees to not keep copies of the provided or collected data after the successful completion of the Agreement for any other use, or transfer data to any other party without the written approval from the Client.

8. RELATIONSHIP OF PARTIES. It is understood and agreed that the Consultant is an independent contractor.

9. NOTICES. All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficient if delivered in person or deposited in the United States mail, postage prepaid, and addressed as follows:

For the Client: Kristen Zimmerman
WAMPO
455 North Main, 10th Floor
Wichita, Kansas 67202

For the Consultant: Janet Harris Wolf
Cambridge Systematics, Inc.
115 S. LaSalle Street, Suite 2200
Chicago, IL 60603

10. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement, either oral or written. This Agreement supersedes any prior written or oral agreement between the parties pertaining to the same subject matter.

11. AMENDMENT. This Agreement may be modified or amended if the modification or amendment is made in writing and signed by the Client and the Consultant.

12. SEVERABILITY. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds any provision of this Agreement is invalid or unenforceable, but by limiting the applicability of such provision the entire Agreement would be valid and enforceable, then such provision shall be deemed to be written, construed and enforced as limited.

13. NO WAIVER OF CONTRACTUAL RIGHTS. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

14. APPLICABLE LAW. This Agreement shall be governed by the law of the State of Kansas. Venue shall lie in Sedgwick County District Court.

15. CONTRACTUAL PROVISIONS ATTACHMENT. All other exhibits, labeled Exhibit A through Exhibit G, to this Agreement are incorporated by reference and are as fully effective on all parties as if set forth here at length.

Approved as to form:

By _____ 9-26-12
Gary E. Rebenstorf Date
City Attorney, City of Wichita

WICHITA AREA METROPOLITAN PLANNING ORGANIZATION:

_____ _____
Tim R. Norton Date
Transportation Policy Body Chairperson

CITY OF WICHITA AS FISCAL AGENT:

_____ _____
Carl Brewer Date
City of Wichita Mayor

ATTEST:

_____ _____
John L. Schlegel Date
Transportation Policy Body Secretary

Cambridge Systematics, Inc.

_____ _____
Steve Capecci Date
Chief of Consulting Operations
Cambridge Systematics, Inc.

EXHIBIT A

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

During the term of this Agreement, 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 Agreement, 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 there under.

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 Agreement 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 Agreement 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 Agreement, 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 Agreement, 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 Agreement 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

State of Kansas
Department of Administration
DA-146a (Rev. 1-01)

CONTRACTUAL PROVISIONS ATTACHMENT

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said Agreement being the _____ day of _____ 2012.

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 Agreement 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 Agreement, 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 Agreement. 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 Agreement 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.).
5. **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 Agreement 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 Agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this Agreement 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 Agreement 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 Agreement 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 or municipality 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 Agreement, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this Agreement 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 Agreement.
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 Agreement relates, nor shall this Agreement 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 Agreement 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 Agreement shall be deemed a waiver of the Eleventh Amendment."

EXHIBIT C

Scope of Services

The sections below provide a detailed Scope of Work for the update of the WAMPO Travel Demand Model. This scope of services does not include purchase of TransCAD or any other software from a third party.

Phase 1. Assessment

This initial phase of the model update will focus on two main goals:

1. Processing Household and Travel Time survey data; and
2. Evaluating the existing travel demand model.

To best use WAMPO's resources, all data processing will be performed in anticipation of using this data directly in later phases to update the travel demand model parameters. Evaluation of the existing travel demand model will result in a recommended model update plan that defines a specific structure for the updated travel model.

Task 1.A. Process Household Travel Survey

As requested in the RFP, this task will include complete processing of the household travel survey database to produce updated trip rates, trip distribution calibration targets, mode share information (including auto occupancy), and updated time-of-day curves. All of the data obtained from the household travel survey analysis will be directly applicable to model update efforts planned for Phase 4.

Basic Survey Processing

Prior to extraction of survey data, the Cambridge Systematics team will process survey results to represent either a trip table (for a trip-based analysis) or a travel roster (for a tour-based analysis). This process includes verifying weighted and expanded household totals with American Community Survey (ACS) or Census data, defining a purpose for each trip or tour. Trip purposes will be defined based on updated trip purpose definitions developed as part of Task 1.C. Processing also will include identifying and quantifying linked trip activity and testing the data for outliers and unreasonable responses. Once this initial processing has been completed, the data will be summarized and evaluated to produce the necessary model parameters and targets.

Trip Production Rates

The Cambridge Systematics team will develop cross-classified trip rates based on variables such as household size, income, number of workers, and auto availability. By creating trip rates based on a variety of different classification schemes, it will be possible to identify the most appropriate variables to use in the updated model.

Cross-classified trip rates consist of two key components: trip rate "marginals" (e.g., rates that vary only by household income) and bi-variate trip rates (e.g., rates that vary by both income and size). Household survey datasets typically include enough data to produce rates with high confidence

intervals at the marginal level. At the bi-variate level, it is often necessary to group or smooth cells so that the resulting trip rates are defined with adequate confidence and follow commonly documented patterns.

Trip Attraction Rates

The Cambridge Systematics team will develop trip attraction rates using a classification approach, but will fall back to a regression approach if necessary. With the classification approach, total weighted and expanded trips are classified by the employment or land use activity present at the attraction end of the trip. These trip totals by attraction end activity type are then divided by regional totals for each classification to produce classified trip rates.

The current model only includes limited attraction rate variables: total households, retail employment, and nonretail employment. The Cambridge Systematics team will expand attraction rate variables to include additional detail. At a minimum, attraction rates should separate service and basic (i.e., production/distribution or industrial) employment in the nonretail category. Other more detailed that can be useful to consider include leisure and hospitality, health care and social assistance, education services, and several others. These data will be obtained through commercially available business databases.

Trip Distribution Calibration Targets

The Cambridge Systematics team will create trip distribution calibration targets using a survey-based observed trip table. Trip distribution targets will consist of a set of trip length distribution curves for each trip purpose. Curves also will be generated separately for peak and off-peak periods and for different income groups. This information will be useful in determining the most appropriate model structure. In addition to trip length distribution curves, district-to-district trip tables are useful in model validation. The Cambridge Systematics team will create district-to-district trip tables for comparison to model results. These tables can illuminate problems in trip distribution assumptions that are not apparent from trip distribution curves alone.

If WAMPO decides to pursue a destination choice model, the household travel survey can support estimation of such a model. After processing, each trip record from the survey dataset will contain key information such as origin and destination Traffic Analysis Zone (TAZ), demographic information, trip purpose, etc. The Cambridge Systematics team can utilize this information in destination choice estimation, if desired and achievable within available project resources.

Mode Share Information

The Cambridge Systematics team will summarize mode share information by purpose and time of day for use in the mode choice model evaluation and update.

Because the household travel survey may not provide complete mode share information, the Cambridge Systematics team will consider the mode shares resulting from all available data, including borrowed model coefficients, estimates from national surveys, ACS data, and ridership data maintained by Wichita Transit. A summary report will compare and contrast the results from each.

Based on discussions with WAMPO modeling staff, the level of accuracy for mode share targets will be evaluated against the requirements for developing mode choice models from all available resources. The Cambridge Systematics team will be particularly sensitive to the gains in accuracy in relation to the cost, time and complexity of the various model estimation approaches. These discussions also will include the anticipated use of the mode choice model in upcoming WAMPO applications. All of these considerations will be taken into account when making assessments and recommendations for development of the updated WAMPO Mode Choice model.

Time of Day

The Cambridge Systematics team will summarize directional trip data by time of day for comparison to the existing model, as well as for use in preparing an updated time-of-day model. The Cambridge Systematics team will analyze data by trip purpose and income group to allow better segmentation of data.

Task 1.A Deliverables

- Technical memorandum describing the survey processing approach, including detailed results such as trip rates and mode share summaries; and
- Updated household survey dataset containing additional information generated in the course of this task.

Task 1.B. Process Travel Time Study

The Cambridge Systematics team will process data from the travel time study for use in the WAMPO Model review and update. Processing will include summarization of travel times by corridor, functional classifications, and area types. Because the survey data includes speed limit information, the Cambridge Systematics team will develop relationships between posted speed and observed speed to be used for improved travel time calibration in the travel model.

For intersection delay, the Cambridge Systematics team will evaluate the detailed geographic information system (GIS) data to isolate delay at intersections. A comprehensive summary will identify delay by intersection type (e.g., Principal/Principal, Principal/Minor, Minor/Collector, etc.). A more specific analysis will identify delay at key intersections identified in collaboration with WAMPO staff.

Task 1.B Deliverables

- Technical Memorandum describing travel time survey analysis process and results; and
- Summary spreadsheets containing detailed analysis results.

Task 1.C. Complete Model Review

For this task, the Cambridge Systematics team will perform a comprehensive review of the current model structure and specification, followed by recommendations for refinements, improvements, and new capabilities. Experience with the current WAMPO Model suggests that improvements to the model can be categorized into short-term and long-term improvements, with the long-term improvements designed to bring the WAMPO Model up to state-of-the-practice techniques. The Cambridge Systematics team will first focus on important but simple improvements, while preparing the model for more significant enhancements in the future.

Review of Current System

The first task after receiving Notice to Proceed from WAMPO will be to begin a full review of the existing travel model system. This review will inform most of the remaining tasks – including Tasks 1.A and 1.B. While the review will be comprehensive, some foundational components of the model review will include:

- Roadway and Transit Network Assumptions;
- Trip Rate Structure and Variables;
- Trip Purposes;
- Income Stratification;
- Mode Choice Model Suitability;
- Peak Time Periods;
- Speed Feedback Implementation; and
- Traffic Assignment Methodology.

Based on our experience and a preliminary review of the model, the Cambridge Systematics team has already identified some important improvements that can be made in the short term. These big-picture improvements are summarized in the table below. While this list of improvements is by no means exhaustive, it highlights some important improvements that can be made easily in the next WAMPO Model update.

Improvement	Reason for Improvement
Add detail to trip purpose definitions (e.g., shop, school, university, work related)	Improve model accuracy, especially on arterial and collector streets.
Update trip generation variables	Detailed employment type, number of workers, and/or household income group play an important role in accurate trip generation.
Segment trips by income	Household income plays a key role in many aspects of travel and can be considered in all model steps.
Distribute trips by time of day	Separate peak and off-peak trip distributions improve consistency between model components.
Model external trip purpose, direction, and distribution	Improve model performance, especially near the edges of the model
Add nonmotorized trips and nonmotorized mode choice	Better represent differences in vehicle trip rates for high- and low-density areas.
Revise time period definition	Time periods in the current model appear to be too long. The AM and PM peak should be represented as one hour each, with shoulder periods, as needed.
Update the traffic assignment convergence criterion	For scenario testing, a convergence setting of 0.0001 can vastly improve model stability.
MOVES data utility	The travel model already provides good information for use in air quality modeling. An integrated utility will process and prepare this information for use in the EPA's MOtor Vehicle Emission Simulator.

After completing a detailed review of the existing system, the Cambridge Systematics team will prepare a comprehensive recommendation for structural improvements to the WAMPO Model.

Bicycle and Pedestrian Trips

The Cambridge Systematics team strongly recommends that WAMPO includes all person trips in the updated travel model. Through the recent household travel survey and ACS data, enough local data are already available to accomplish this. The Cambridge Systematics team will include all person trips in model review and analysis.

Interface Enhancements

The Cambridge Systematics team brings a strong suite of TransCAD enhancements, all compatible with TransCAD 6. The Cambridge Systematics team will update the existing WAMPO Model interface, or replace it with a new interface.

Regardless of the primary interface selected, the Cambridge Systematics team will update the WAMPO Model to include additional modules listed below. A detailed description of each module is included under Task 3.D.

- Excel-Based Summary Report;
- Turn Movement Processor with Synchro compatibility;
- Link-based NCHRP-255 Adjustments;
- Advanced Select Link/Node Utilities;
- Streamlined roadway and transit network management;
- EPA MOVES Emission Model Interface; and
- Comprehensive Dashboard Mapping System.

The Cambridge Systematics team will integrate each of these add-ins with the WAMPO Model

Special Generator Survey Needs

The Cambridge Systematics team will review the list of special generators currently included in the WAMPO Model and consider them categorically. Experience from other metropolitan planning areas around the country will be used to evaluate the following:

- Are there types of special generators used elsewhere, but not included for WAMPO?
- Are the special generators for the Wichita area unique in some way to the local area?
- Are the methods used elsewhere to develop trip estimates for special generators applicable for WAMPO?
- Is the data needed to estimate special generator activity (e.g., employment, retail space, patient beds, university students, etc.) available?

The Cambridge Systematics team will prepare a recommendation based on these factors regarding the need for a special generator survey.

Air Quality Modeling

If the WAMPO area becomes an air quality nonattainment area, it will be necessary to perform emission modeling. The Cambridge Systematics team will provide a module that extracts key model outputs and formats data for input to MOVES.

As resources allow, the Cambridge Systematics team also can help guide WAMPO through the conformity process, as we have extensive experience helping MPOs prepare conformity documentation.In addition to travel model data, the MOVES model requires detailed information about temperature, fuel type, and the local vehicle fleet. The Cambridge Systematics team can help WAMPO collect this information and prepare it for use in emissions modeling.

Model Years

As part of this task, the Cambridge Systematics team will recommend base, interim, and forecast years for the travel model and Metropolitan Transportation Plan (MTP). We will help WAMPO identify an approach that maximizes data availability and ensures compliance with Moving Ahead for Progress in the 21st Century (MAP-21), the new Federal Aid Transportation Bill.

Performance Measures

With the recent passage of MAP-21, emphasis on performance-based planning has been increased. The Cambridge Systematics team will provide WAMPO with recommendations on data collection and travel model needs for monitoring and planning for the performance of the area's transportation system. Performance measure recommendations will be categorized into two parts: observed measures and planning measures.

- **Observed performance measures** will monitor progress on the ground made by the MPO in meeting planning goals and improving or maintaining performance of the transportation system. These measures can be largely based in existing traffic count data, especially data collected continuously or annually in specific locations. Other data for collection may include regular (but smaller) travel time surveys and nonmotorized counts. Both of these items can often be collected at relatively low cost by MPO staff.
- **Model performance measures** aid the MPO in preparing an MTP that will best serve the region. With proper model validation and buy-in by local jurisdictions, the travel model can assist the MPO in prioritizing use of limited transportation funds. Data for performance measure development is already present in the model and can be extracted for the scenario planning process. To most effectively use this information, the Cambridge Systematics team can provide WAMPO with recommendations on preparing a collaborative weighted decision-making process. Such a process melds objective measures, such as vehicle miles traveled (VMT), delay, air quality, and safety measures, with subjective measures defined by the MPO Transportation Policy Board (TPB).

Data Deficiencies

Early in the process, the Cambridge Systematics team will prepare a Data Availability and Needs table. This simple inventory will be maintained throughout the data collection phase to ensure all required data are accounted for.

Implementation Timeline

The Cambridge Systematics team will produce a suggested timeline for all identified model improvements. After coordination with WAMPO staff regarding available resources and modeling needs, improvements will be separated into short-, medium-, and long-term improvements. Short-term improvements will include all updates that can be performed in this model update. Medium- and long-term improvements will be recommended for consideration in future model updates.

Task 1.C Deliverables

- Technical memorandums:
- Current Model Review and Recommended Improvements,
- Recommended Interface Enhancements,
- Data availability and needs summary.

Phase 2. Data Collection and Development

The Cambridge Systematics team will undertake the following tasks related to data collection and the development of key inputs to the travel demand model. These tasks will include a review and update the current TAZ structure. A review and update of the regional roadway and transit networks will ensure both networks are accurate, up to date, and reflect current base year conditions. Future year networks will be developed for the interim and plan horizon year. Finally, estimates and forecasts of socioeconomic attributes required for the model (e.g., households and employment) will be prepared for the base, interim, and plan horizon years.

Task 2.A. Revise Traffic Analysis Zone System

The Cambridge Systematics team will update the TAZ layers to be consistent with the model architecture and model years (base, interim, and plan horizon), as defined in Phase 1. The first step in the process will be a review of the existing TAZ structure with WAMPO staff. This review will identify the strengths and weaknesses of the current structure and identify areas for improvement to better match with the model architecture, conditions on the ground, and to better meet WAMPO's planning and analysis needs.

Boundary Updates

The size and number of TAZs in a particular area will be driven by the density of development and the level of detail required for the types of analysis being undertaken. More development and a greater level of detail will require a greater number of smaller zones. In areas where new development is anticipated, smaller TAZs may be recommended to improve forecast resolution.

TAZs are typically aggregations of U.S. Census geography. TAZs will be built up from census blocks, census block groups, or census tracts, as appropriate. An equivalency table will be prepared that shows the correspondence between each TAZ and the census geography it is associated with. However, there are cases where Census geography does not work well to define reasonable TAZs. In such cases, it may be useful to split individual census blocks.

Centroid Connector Updates

The Cambridge Systematics team will review and update centroid connectors during two stages of model development. The first set of centroid connector updates will be performed concurrently with the modifications being made to the TAZ system. The second adjustment will occur during traffic assignment validation.

During the first adjustment, new centroids and centroid connectors will be added to support new or modified zones. In addition, centroid connectors will be modified, as needed, to more accurately reflect the accessibility options available to travelers in the region.

During traffic assignment validation, the Cambridge Systematics team will further adjust centroid connectors based on a review of model volumes and counts. This will result in more accurate representation of traffic as it loads onto the roadway network, and will correct for some aggregation bias. The resulting centroid connectors will continue to represent actual loading as observed through aerial photography and street centerline data.

Task 2.A Deliverables

- Revised TAZ layer, and
- Revised roadway network with updated centroids and centroid connectors.

Task 2.B. Update Roadway Network Layer

Network Updates

The Cambridge Systematics team will update the roadway networks utilizing a master network file, as in the current WAMPO Model, that maintains all roadway data in a single TransCAD geographic file. The Cambridge Systematics team will perform a detailed review of the current base year WAMPO roadway network to ensure accuracy. Potential attribute errors will be closely reviewed and corrected. Any errors in roadway alignment also will be corrected. In addition, the Cambridge Systematics team will update the network to include any roadway improvements that have been completed since 2008 (the current model's base year) and the new base year. Once the base year network review and update are complete, the Cambridge Systematics team will provide maps in PDF, TransCAD, ArcGIS, and/or Google Earth format for review by WAMPO staff. The Cambridge Systematics team will make any further adjustments to the network based on review comments.

Improvement List

The Cambridge Systematics team will prepare a list of improvements represented in the current forecast networks. This list will be used to help prepare an updated list of committed, planned, and proposed roadway improvements to be included in the new interim and plan horizon years. This list will be cross-checked against the current Transportation Improvement Program (TIP) and reviewed with WAMPO staff to ensure that it accurately reflects all potential capacity improvements. The Cambridge Systematics team will then update the roadway network to represent each improvement that is appropriate for inclusion in the travel model (i.e., capacity improvements). These improvements will be coded as network alternatives using the master network TransCAD geographic file. This will allow the model to be run with future roadway alternatives activated individually or in combination. Sets of alternatives can then be combined to make up network scenarios, such as an existing plus committed roadway network, a fiscally constrained forecast network, and a vision plan network.

Count Data Review and Update
The Cambridge Systematics team will coordinate with WAMPO staff to obtain traffic count data from all counties and cities in the WAMPO area. This information will be placed on the roadway network, along with original source information, the month and year the count was collected, and a unique identifier. This identifier can be linked back to original count source files, allowing for investigation of problem counts identified during the model validation process. If available, count data will be included for 24 hours and for the AM and PM peak hours.

Task 2.B Deliverables
- Updated roadway network, and
- List of projects included in the updated roadway network.

Task 2.C. Update Transit Route System
The Cambridge Systematics team will review and update the transit route system to reflect the service present during the selected model base year. Information, such as transit run time, peak and off-peak frequency, and route pattern, will be coded based on schedule information and route maps. Route information will be coded according to the data structure identified in Task 3.A.

Coding of transit routes is a fairly straightforward process, but certain coding methodology must be followed so that the pathbuilder will work correctly. The Cambridge Systematics team has extensive experience with the TransCAD pathbuilder, and has developed a set of route coding guidelines. By following these guidelines, the transit route systems will realistically represent transit system operation.

Once transit route systems are complete, they are converted into transit networks by TransCAD macros. The Cambridge Systematics team will review and update the current transit network settings, speed functions, and pathbuilding parameters. Because the household travel survey included a targeted over-sample of transit riders, it may also be possible to perform a prediction success analysis. This analysis compares transit paths built from the route system to transit paths reported by survey participants.

Task 2.C Deliverables
- Updated transit route systems, and
- Updated transit network settings.

Task 2.D. Demographic Estimates and Forecasts
This task will include the development of estimates and forecasts of demographic attributes required by the model architecture for each TAZ in the base, interim, and plan horizon years. Demographic data input to the current WAMPO Model includes number of households; employment (retail, nonretail, and total); population; and median income by TAZ. These socioeconomic data are ideal for travel modeling because they represent standard and consistent units similar to many travel models throughout the United States. The result is a large number of models that can be used for comparison in the model validation and reasonableness checking process.

Control Totals
The initial step in the process will be the development of control totals of population, households, and employment for the base, interim, and plan horizon years. These totals will provide a framework for the estimates and forecasts to be prepared. Having established reasonable control totals will help to ensure that, later in the process, the sum of forecasts for counties and municipalities do not exceed reasonable interim and plan horizon year estimates.

Data Sources
In development of an updated socioeconomic dataset, the Cambridge Systematics team will collect available household, employment, and land use data from sources, including local jurisdictions, the U.S. Census, and Kansas Department of Labor datasets. A privately maintained datasets (e.g., Dunn and Bradstreet, InfoUSA) will be purchased to support development of base year employment data. Stakeholder coordination will begin with WAMPO and the individual counties that are part of the WAMPO planning area: Sedgwick, Sumner, and Butler Counties. This coordination will continue with the municipalities within the WAMPO planning area. In each case, the following issues will be addressed:

- Feedback on current base year and future year regional forecasts;
- Availability of base year demographic data (e.g., households, employment);
- Availability of local comprehensive plans;
- Known planned developments;
- Known special generators; and
- Availability of forecast demographic data (e.g., households and employment) for the interim and future years.

Employment data are typically the most difficult socioeconomic data to obtain, but are critical in development of an accurate travel model. Land use data from local jurisdictions, often at the parcel level, can provide a good starting place for employment data development. GIS parcel databases that include zoning and land use information, such as those for Sedgwick, Sumner, and Butler Counties, are available on-line and would be very useful if available for this study. In addition, the employment estimates from the current WAMPO Model provide an excellent starting point for the development of new forecasts, as long as local jurisdictions feel these estimates are reasonable. Local employment data may be supplemented with data from several sources, including Quarterly Census of Employment and Wages; the Kansas Department of Labor; Current Population Survey; or market research listings, such as Dunn & Bradstreet, InfoUSA, or ReferenceUSA.

Upon collection and analysis of the available data, the Cambridge Systematics team will create an updated base year TAZ dataset that includes existing socioeconomic data, data on special generators, and fits the new model architecture. The dataset will be presented in a form that can be passed on to WAMPO area counties and municipalities for their review and comment. The dataset will then be revised in response to comments received.

Forecast and Interim Year Data
The existing WAMPO forecasts, local comprehensive plans, traffic studies, and other planning documents will provide the foundation for future land use datasets. The Cambridge Systematics team will work with WAMPO staff to identify the available datasets for each area within the county, and produce a recommended land use forecasting approach. Initial recommendations for an approach are included below, but recommendations will need to be adjusted after a review of available data and discussions with WAMPO staff.

The Cambridge Systematics will consider beginning the process with a land use capacity dataset. This can be created by first combining general plan land use elements from each jurisdiction into a consolidated GIS layer. The resulting dataset will represent the capacity for growth in planned portions of the WAMPO area.

In areas where general plan land use data are absent or vague, long- and short-term growth trends will be used to determine future growth potential. This will be particularly useful in Census-designated places that are not incorporated cities or towns. Information based on trend analysis will be supplemented with local knowledge provided by WAMPO staff and member jurisdictions.

An important consideration in the forecasting process will be conversion of sketch plan or "blob" maps that designate large areas with a specific land use into more reasonable demographic forecasts. For example, it is important to account for transportation and utility rights-of-way when estimating acres available for future development. In addition, undevelopable areas, such as waterways, wetlands, and public lands, must be removed from available land estimates. General plan land use maps often do not exclude such areas from developable land. The Cambridge Systematics team will use statewide datasets containing this information to support the forecasting process.

The Cambridge Systematics team will prepare a future demographic capacity and socioeconomic forecast dataset, including special generators, for review and comment by WAMPO. The dataset will be presented in a form that can be passed on to other WAMPO area counties and municipalities for their review and comment. The dataset will then be revised in response to comments received.
To encourage thorough review by member jurisdictions, it may be helpful to request that a representative from each jurisdiction provides a statement that the data have been reviewed. This approach can eliminate situations in which no response is assumed to be acceptance of data, later followed by concerns with the data.

Because a land use forecasting process utilizing CommunityViz is expected to be underway during this process, the Cambridge Systematics Team will adjust the methodology described above as appropriate to best utilize information made available by this parallel process.

Special Generators
Special Generators play a key role in the definition of population and employment information for the current and forecast years. What makes them special is the often under-reporting of trips from these activity centers because they are unique in some way; whether that is the strong propensity for nonmotorized trips that often occurs on college campuses, or the large number of nonwork trips that

occur at a regional shopping mall. Employee-related travel at a regional shopping mall or college will be captured in the generation of trips or tours, but without quantifying the unique trip making that occurs at these regional activity centers, travel can be under-reported. The information learned in Task 1 on the current special generators and the need for refinement of the process used to identify and quantify their trip-making characteristics will be documented here. This documentation will include the list of current and future special generator categories, the method recommended for quantifying the additional trips generated, discussion of how these trips will be added in to the WAMPO travel forecasts, and the recommended approach for adding new special generators in for future model applications. Critical also to this documentation will be the clear identification of data needed to properly quantify the trip/tour impacts of potential special generators.

Once agreement has been reached on the types of Special Generators to be included and the data available for quantifying their impacts, the Cambridge Systematics team will prepare the necessary datasets for the current, interim, and forecast years. This will include additional Special Generators, and the review and assessment of the current Special Generators. The need to ensure that the existing Special Generators are still relevant to the newly formulated travel forecasting model and that the trip-related data are included accurately will be an important part of this step. For example, inclusion of separate shop and work-based trip purposes may reduce or eliminate the need for Special Generators at regional retail centers.

Task 4.D Deliverables

- Updated base and forecast year demographic datasets,
- Coordination with local jurisdictions to gather input on forecast year data development, and
- Updated special generator definitions.

Phase 3. Interface Enhancements

The Cambridge Systematics team will include the enhancements requested in the RFP, as well as a suite of value-added model enhancements. Specific details are discussed in the sections that follow.

Task 3.B. Update to TransCAD 6.0

TransCAD 6.0 provides numerous new capabilities and features, including improved mapping capabilities, 64-bit processing, improved multithreading, and enhanced Origin-Based User Equilibrium (OUE) assignment capabilities. Furthermore, TransCAD 6.0 is largely compatible with models built for TransCAD 5.0. The Cambridge Systematics team will convert the WAMPO Model to the most current version of TransCAD.

Task 3.B Deliverables

- Updated interface with TransCAD 6.0 compatibility.

Task 3.C. Enhance Ability to Distribute

The Cambridge Systematics team will provide the model with a full-featured installer. This full-featured installer program can be packaged to include the complete model Add-In and dataset, or can

be provided as an update containing changes to the model Add-In that are compatible with existing datasets.

In addition to simply extracting files, the proposed installer program will locate the TransCAD software program on a user's computer and insert the WAMPO Model into the Add-In's menu within TransCAD. This prevents users from needing to manually install the program from within the TransCAD interface. Furthermore, the program installs files in a manner consistent with Windows 7 guidelines, preventing the User Account Control from interfering with the travel model add-in.

Task 3.C Deliverables

- Model installer program and resource code.

Task 3.D. Cambridge Systematics Value-Added Enhancements

The Cambridge Systematics team will include several additional model enhancements in the updated WAMPO Model. These enhancements, described below, are built upon the functionality built in to the TransCAD software to improve the usability of the model.

Excel-Based Summary Report

The summary report contains information about each model run, including a complete inventory of inputs, settings, and output files. The report also includes technical details, such as data from each model step, as well as a consolidated summary containing key performance measures, such as VMT and congestion delay. The Cambridge Systematics team will replace the existing model report with an enhanced version that contains improved detail and formatting. The report can be generated in either HTML format or as an Excel workbook.

Turn Movement Processor with Synchro Compatibility

The Cambridge Systematics team's turn movement processor can produce turn movement estimates using procedures described in the National Cooperative Highway Research Program (NCHRP) Report 255, which use existing turn movement data, base year model results, and future year model results. The add-in can read and write turn movement data in a CSV format that can be used to interface with Synchro, Excel, or other traffic operations and simulation software.

Link-Based NCHRP-255 Adjustments

While the Cambridge Systematics team will make every effort to validate the model to a very high standard, no validation is perfect. The link-based NCHRP-255 adjustment produces an adjusted set of model volumes that accounts for error in the base year model when producing adjusted forecast results. This module allows users to view both raw and adjusted model volumes. The adjusted volumes help address concerns when base year model volumes are too high or too low, resulting in unreasonable forecast volumes.

Advanced Select Link/Node Utilities

The Cambridge Systematics team's suite of add-ins includes utilities to manage select link and node queries. A select query generator will create a select node query based on a selection set, allowing for subareawide select zone analysis. In addition, all traffic assignment combination routines retain select link and node information when combining period-based traffic assignment results into a 24-hour total.

Streamlined Roadway and Transit Network Management
While the WAMPO Model already includes a Master Network format that retains all roadway information in a single file, the Cambridge Systematics team can provide additional tools to improve this feature. These tools simplify the creation, modification, and deletion of scenarios to the master network. The tools also enhance the ability to track individual projects and groups of projects.

EPA MOVES Emission Model Interface
The EPA's MOVES model requires model data in a specific format to support running emissions scenarios in conformity mode. The Cambridge Systematics team can include a new module in the WAMPO Model that exports model results for direct use by the EPA MOVES model.

Comprehensive Dashboard Mapping System
The Cambridge Systematics team can include a comprehensive dashboard system in the updated WAMPO Model. The dashboard system is tied into the model scenario manager, and can quickly create several useful maps, including:

- Simple volume maps,
- Volume/count validation maps,
- V/C or level of service (LOS) maps,
- Traffic comparison maps,
- Transit flow maps (by route and aggregated),
- Transit on/off maps,
- TAZ-based socioeconomic data or trip-end maps, and
- Desire line maps.

The dashboard includes several settings, such as the ability to turn labels and centroid connectors on or off and to create a layout for printing. The dashboard has been designed to address requests from clients to simplify complex or tedious tasks related to model output review. Once maps are created, users can take advantage of the mapping tools available in TransCAD 6.0, or export maps to ArcGIS.

Task 3.D Deliverables

- User Interface with value-added enhancements.

Phase 4. Survey Processing and Model Estimation

This task completes the survey analysis and proceeds to the process of updating the travel model itself. While analysis of external station survey data cannot begin until the external station survey is complete, any delay in the external station survey is not expected to impact updates to the model itself. The majority of model updates can be made based on work to be completed in Phase 1 of this project.

Task 4.A. Process External Station Study

The Cambridge Systematics team will review the data made available by the external station study, and will process the data to create travel model inputs. Key information to be derived for each external station will include:

- Total volume at each external station;
- Trip purpose (e.g., HBW, HBS, etc.);
- Trip direction (i.e., home to work or work to home);
- Internal origin or destination for all IE/EI trips;
- Paired external station for all EE trips;
- Truck/auto split at each external station; and
- Breakdown of IE, EI, and EE trips at each external station (by truck and passenger vehicle).

With this information, the Cambridge Systematics team will produce base year EE trip tables for truck and passenger vehicles, and develop an updated IE/EI trip component for the WAMPO model. The updated component will reflect observed travel characteristics, such as trip direction and purpose, changes in trip patterns by time of day, and trip distribution characteristics. This new information will allow the Cambridge Systematics team to more accurately calibrate and validate the updated WAMPO model in areas near external stations.

Task 4.A Deliverables

- Technical memorandum describing external station processing, and
- External parameters for use in the updated model.

Task 4.B. Update All Component Models

This task consists primarily of incorporating new data and recommendations from Task 1.C into the WAMPO Model. In anticipation of this effort, data prepared in Tasks 1.A, 1.B, and 4.A will be formatted in a manner suitable for direct input to the travel model. This task will primarily consist of updating the model structure, input formats, and algorithms to accommodate the new methodology and parameters.

As each model component is updated, the Cambridge Systematics team will perform “manual” verification that computations are working correctly. The manual verification process involves selecting specific calculations, such as trip generation for an individual TAZ, and performing model calculations in a spreadsheet. Results of the spreadsheet application will be compared to results produced by the TransCAD model to ensure that the model is performing as expected.

Task 4.B Deliverables

- Technical memorandum describing updated model components; and
- Draft model datasets and resource code, including updated methodology and parameters.

Phase 5. Validation

Model validation is the most important task in the model update process and is needed to build trust and confidence in the travel model. To complement the well validated model, the Cambridge

Systematics team will provide complete and comprehensive documentation and deliver the final model to WAMPO.

Task 5.A. Validation

The Cambridge Systematics team will validate the base year model to observed conditions using available traffic count data, census data, ACS data, and data from the three locally collected surveys. The validation process looks at the results of the complete model operation in a more detailed and comprehensive fashion than the calibration process that addresses each model step individually. As a result, it may be desirable to adjust trip generation, trip distribution, or other model parameters to match overall VMT results or other regional travel characteristics. Validation will be carried out to meet the standards of nationally recognized guidance documents, such as the FHWA's *Model Validation and Reasonableness Checking Manual* (first and second editions).

In addition to regional statistical validation measures, it is important that the model validation can stand up to local scrutiny. TranSystems is extensively involved in local planning and engineering efforts; and will help focus validation efforts on known problem areas, such as Andover Road, Maize Road, and crossings over the Big Ditch. To further confirm that the model validation stands up to local scrutiny, the Cambridge Systematics team will work with WAMPO to form a Model Validation Task Force made up of representatives from local jurisdictions.

Regional Validation

Model validation occurs throughout the model update process. It begins with identification of reasonable trip rates during the household survey analysis step; and continues forward to trip length evaluation, mode analysis, and traffic assignment. The Cambridge Systematics team will monitor model calibration and reasonableness measures throughout the model development process, and will include such measures in the technical memorandums delivered for each task.

After initial model updates are complete, the Cambridge Systematics team will commence systemwide model validation. Model validation will primarily focus on the model's ability to match observed traffic count data, but also will include comparisons of model parameters and statistics to generally accepted guidelines. For example, person-trip generation rates and implied vehicle-trip generation rates will be compared to published ranges from sources, such as the *Model Validation and Reasonableness Checking Manual* and *ITE Trip Generation Manual and Handbook*. When changes are made during the validation process, parameters developed earlier (e.g., friction factors) will be reviewed to verify that they remain valid.

Comparisons of model results to ground counts will include several key statistics that provide different information about a model's capability to accurately "predict" existing conditions. Measures will include statistics, such as Count/Volume ratio, Percentage Root Mean Square Error (%RMSE), R-squared, screenline analysis, and volume/count maps. The Cambridge Systematics team will coordinate with WAMPO staff during this process to ensure that changes to the model improve, rather than encumber, its ability to provide meaningful forecasts.

Corridor-Level Validation
An acceptable RMSE or R-squared value does not in itself confirm that a model is validated. Regional statistics do not always reveal localized problems, such as corridors with over- or under-assigned traffic. The Cambridge Systematics team will use mapping tools to review and identify corridors with high or low volumes as compared to counts, and work to identify causes of such problems. This manual and visual review cannot be replaced by general statistics or automated processes. To further identify potential problem areas, the Cambridge Systematics team will identify the "Top 10" errors by magnitude and percent. These Top 10 errors often point to network coding problems or other errors that can easily be corrected.

Model Validation Task Force
The Cambridge Systematics team proposes formation of a Model Validation Task Force. Representatives from all jurisdictions in the WAMPO area will be invited to attend workshops in which the travel model is reviewed in detail. The Cambridge Systematics team will conduct three validation workshops with the following topics:

- Modeling 101. This workshop will include a presentation on how the model works "under the hood", along with a summary of improvements conducted as part of this effort. Participants also will be asked to review base year roadway network maps for accuracy.
- Validation 1. As consultant work in model validation begins to see diminished returns, task force members will be invited to provide insight into possible sources of remaining validation issues.
- Validation 3. The nearly complete model validation will be presented to task force members for final review and comment.

Sensitivity Testing
Sensitivity testing will be applied to both base year and future year scenarios. This important step can draw out any problems or inconsistencies in the model dataset and algorithms prior to application of the model. The Cambridge Systematics team will perform sensitivity tests, including:

- Data Changes of Varying Size. Small and medium changes to demographic data should produce consistent and reasonable changes in model outputs. Changes to residential and nonresidential data are expected to have different impacts due to the trip-balancing process.
- Network Changes. Major network changes are expected to have large impacts on travel patterns, while minor network changes are expected to have only minimal impact. Both types of changes will be included in sensitivity testing.
- Wholesale Changes. Replacement of base year demographic data with forecast data should produce VMT, vehicle hours traveled (VHT), and delay changes consistent with expectations. Congestion or LOS maps should produce reasonable results.

Task 5.A Deliverables

- Attendance at three model validation workshops,
- Coordination with WAMPO staff during the validation process, and
- Model Validation Technical Memorandum.

Task 5.B. Documentation and User's Guide

Model Documentation

Throughout the course of the project, the Cambridge Systematics team will document the model update process as work is performed. Sections of the final documentation will be provided to WAMPO for review in the form of technical memorandums identified for each task. Individual sections will be collected and integrated into a complete document detailing travel model processes, parameters, and assumptions. This document will be provided with the intention that a person with good understanding of the travel modeling process would be able to fully understand the model development and validation process.

So that WAMPO does not need to wait until the end of the project to receive final documentation, the final report will be prepared and delivered in four three sections. The three proposed sections are:

- Assessment of Survey Data and Current Model,
- Updated Model Components, and
- Updated Model Validation.

Some technical memorandums delivered for the tasks described above may not be appropriate for inclusion in the final model documentation. In such cases, these will become part of a technical appendix to the final model report.

User's Guide

The Cambridge Systematics team will provide a separate User's Guide document that outlines the process required to prepare and run travel model scenarios, defines the data structures used in the model, and documents standards required to correctly maintain and modify travel model inputs. This document will be designed so that a person with basic computer skills and an understanding of the travel modeling process could accurately and consistently run the model using this guide as a reference. The User's Guide will include graphical depictions of the user interface, as well as a data dictionary describing the input and output files and parameters.

Task 5.B Deliverables

- Model Documentation (delivered in three sections), and
- Model User's Guide.

Task 5.C. Delivery and Training

Model Delivery

The Cambridge Systematics team will compile the TransCAD model Add-in and all model input files for delivery to WAMPO. To streamline model installation, the data will be packaged in a Setup.exe

installation file that makes the appropriate additions to the TransCAD software on a computer. The installation file will allow the user to optionally install all model input data as well, selecting a desired hard drive or directory to contain model runs. In the case that revisions to the model become necessary, the installation file will be designed so that it allows the model to be installed or updated, depending on the status of a particular machine.

In addition to the installation file, the Cambridge Systematics team can provide a zip file containing model installation files, along with instructions to manually install the model. The Cambridge Systematics team also will provide the source code used to run the updated model.

Model Training

The Cambridge Systematics team will prepare model training sessions that are tailored to the specific skill sets of participants. The Cambridge Systematics team will provide two full day training sessions. By separating the training session into multiple parts, attendees will have an opportunity to master basic concepts, and then graduate to advanced modeling topics. The training sessions will be imperative in ensuring that staff planning to use the model will have a full understanding of the model data, processes, and parameters. The interactive training sessions will include detailed instructions on the use of the model, along with interactive examples and exercises to help reinforce the material. Upon completion of the training session, participants will be able to successfully install and run the travel model; edit and maintain model inputs; view model outputs; and test proposed roadway, demographic, and transit alternatives.

It is expected that participants will have varying levels of need for model training. For example, some staff members or representatives from local jurisdictions will need to know how to formulate requests to WAMPO staff and interpret results, but will not have a desire to physically run the model. For these members, the Cambridge Systematics team proposes attendance at the first model validation workshop that will focus on more general topics.

Task 5.C Deliverables

- Travel Model Installer Program, and
- Two full day training sessions.

Phase 6. MTP Modeling

Using the modeling system developed in Phases 1 to 5, the Cambridge Systematics team will assist WAMPO staff in the preparation of an update to the MTP. It is anticipated that No-Build and Build scenarios will be run for both the interim and future years. The Cambridge Systematics team stands ready to assist WAMPO staff in the development of alternatives, but understands that WAMPO staff will provide project locations and descriptions. The Cambridge Systematics team will provide model outputs to WAMPO, and assist in the evaluation of individual scenarios or groups of scenarios for purposes of comparison as part of the MTP update.

Task 6.A. Coding Projects

The Cambridge Systematics team will code projects into the master highway network and transit route system based upon project locations and descriptions provided by WAMPO staff. In addition to attributes that describe the configuration of a facility, attributes also will be included for all roadway and transit facilities that identify improvements as existing, committed, or proposed; and that allow the development of selection sets for the development of plan scenarios. Task 6.A Deliverables

Updated networks and route systems.

Task 6.B. Running Scenarios

It is anticipated that base year, interim year, and plan horizon year scenarios will be run. The Interim and Plan Horizon Years will each include a Project No-Build Scenario (i.e., using existing plus committed networks), plus three to six Build scenarios. The scenarios will be comprised complementary projects that address the long-term transportation needs of the region, given anticipated land development and regional travel patterns. While WAMPO staff will be the final authority as to which projects constitute a scenario, the Cambridge Systematics team stands ready to assist staff in the development of scenarios for purposes of project evaluations undertaken as part of the MTP Update.

Task 6.B Deliverables

Completed model scenario runs.

Task 6.C. Providing Outputs

The Cambridge Systematics team will provide WAMPO with outputs from each model run. Such output will include, but not necessarily be limited to, tabular reports, thematic maps, and comparison tables. Data will be provided in a format requested by WAMPO, including TransCAD, ArcGIS, or other, as appropriate. It also is understood that this task will include assisting WAMPO staff in the evaluation of and comparison of Plan scenarios, based upon WAMPO performance measures and the congestion impacts of different scenarios.

Task 6.C Deliverables

- Model output summary information, and
- Coordination with MPO staff and stakeholders.

Task 7. Project Management

Communication

The WAMPO Model update will require coordination between WAMPO; KDOT; Sedgwick, Sumner, and Butler Counties; and cities within the WAMPO area. In addition, the project will require even closer coordination between the WAMPO Project Manager, the Cambridge Systematics Project Manager, and key staff assigned to the project. To ensure consistent and effective communication, the Cambridge Systematics team proposes creation of the two groups described below:

1. **Study Team.** A small group consisting of the WAMPO and Cambridge Systematics Project Managers, as well as key staff from WAMPO and the Cambridge Systematics team, as needed.

It also may be desirable to include a representative from KDOT or other WAMPO jurisdictions on this team. The Study Team will meet on a biweekly basis to monitor project progress and discuss details pertinent to the work effort. Biweekly meetings will be scheduled in advance (e.g., every other Tuesday); and will typically be held to 30 minutes or less. The WAMPO and Cambridge Systematics Project Managers may elect to cancel these meetings when not needed, or to extend meetings, as necessary.

2. **Model Validation Task Force.** This will consist of representatives from WAMPO, KDOT, and WAMPO member governments. At the outset of the project, the Cambridge Systematics Project Manager will work with the WAMPO Project Manager to identify a list of invitees. The goal will be to invite a representative from each WAMPO member jurisdiction to participate. To encourage participation, involvement on the task force will require limited commitment. This team will meet three times as described under Task 1.A. Members of the task force will be encouraged – but not required – to review materials and provide additional input during the model update and validation process. Active members of the Model Validation Task Force will have the opportunity to provide guidance and recommendations regarding the update approach, and will be a valuable resource for improving the model validation.

As noted in the individual task items above, the Cambridge Systematics team will provide technical memorandums throughout the model review and update process. Documentation and communication will occur throughout the process, allowing identification and correction of any potential problems quickly and efficiently.

Cambridge Systematics team staff will attend some meetings in person and others via conference call. As needed, the Cambridge Systematics team will use webconferencing technology to share maps, reports, and other information.

Presentations

The Cambridge Systematics Project Manager also will be available to present information about the model update to MPO committees. A suggested list of presentations is included below. These presentations can be coordinated with other important meetings, such as the project kickoff meeting, model validation task force meetings, and training sessions.

1. Kickoff presentation to an MPO Committee, such as the Technical Advisory Committee. This presentation will include a short summary about the travel model and the purpose of the update, and also will serve to obtain input from committee members prior to beginning the model update process.
2. Interim progress report to a group, such as the Technical Advisory Committee. This presentation will include a brief update on the status of the update, as well as a summary of findings.
3. Model Delivery report to a group, such as the Technical Advisory Committee, as well as the Transportation Policy Board. This presentation will include the final model, and will focus on participation and input received from the Model Validation Task Force.

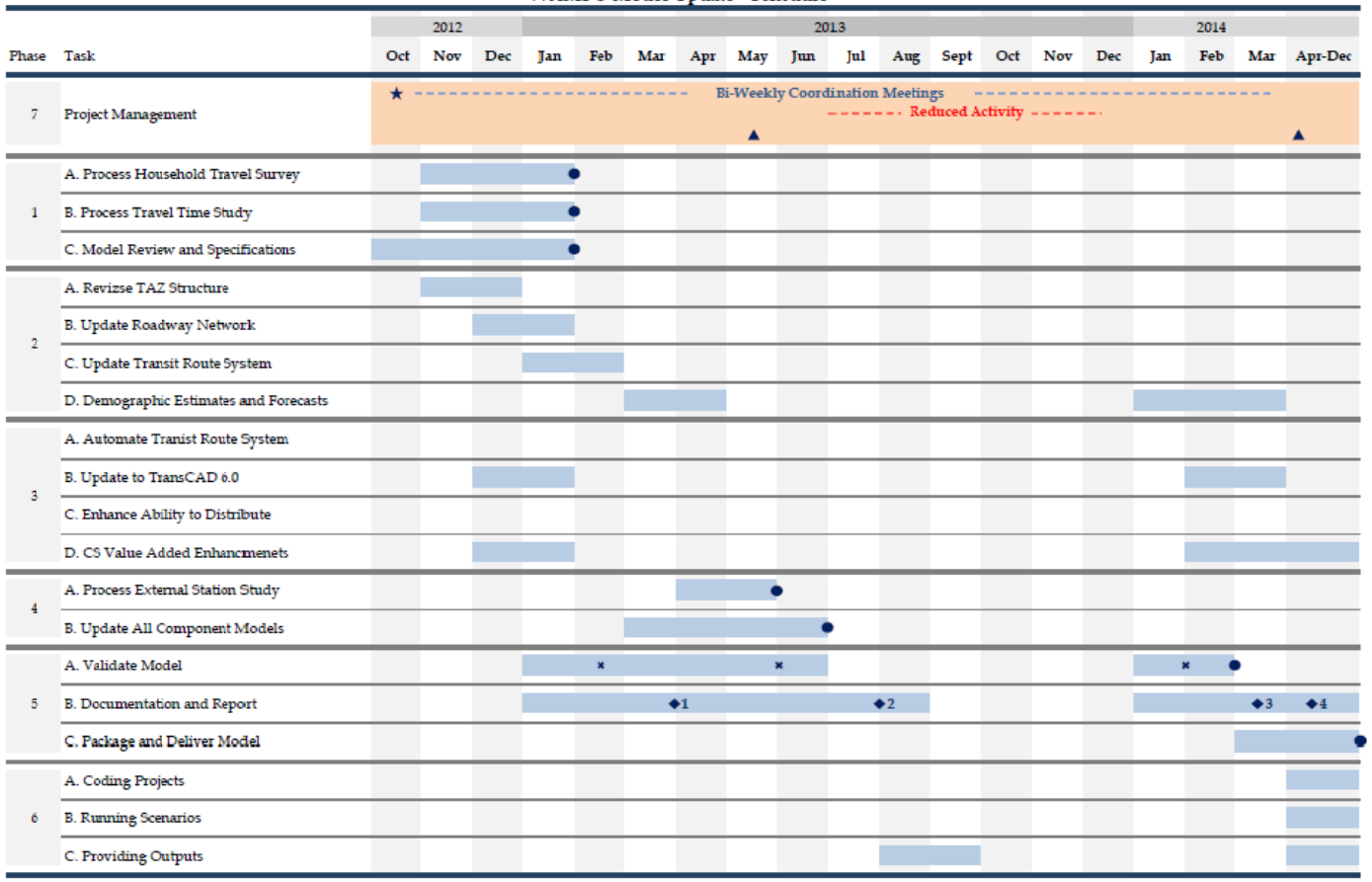
Resource Allocation and Progress Reports
To ensure that resources for this project are allocated properly, Cambridge Systematics will provide monthly progress reports along with each invoice. In addition, Cambridge Systematics holds monthly project management meetings, in which resources, work complete, and upcoming tasks are reviewed for each active project. While difficulties are not anticipated, corrective action will be taken immediately if any issues or concerns are identified.

Task 7 Deliverables
- Participation in Study Team Meetings;
- Presentations to committees (3) and the TPB (1); and
- Monthly invoicing and progress reports.

Project Schedule
The Figure 2.1 below shows a detailed schedule of the WAMPO Model update, as proposed by the Cambridge Systematics team. This schedule includes Task 7: Project Management at the top of the figure to emphasize the importance of constant and consistent communication. Other highlights include periodic technical memorandums, committee presentations, and the Model Validation Task Force.

This schedule is intended to meet the needs of WAMPO as they prepare for the upcoming MTP update, it is flexible. The schedule will be adjusted as needed throughout the project to make use of data as it becomes available, to allow for sufficient review and feedback from WAMPO and stakeholders, and to fit within WAMPO's fiscal year funding requirements.

WAMPO Model Update - Schedule



★ Kickoff Meeting
● Draft Technical Memorandum
◆ Report Section
▲ Committee / TPB Presentation
× Model Validation Team Meeting

1. *Assessment of Survey Data and Current Model*
2. *Updated Model Components*
3. *Updated Model Validation*
4. *Model User's Guide*

EXHIBIT D

Fee Schedule

WAMPO Travel Model Update
Cost Estimate - Cambridge Systematics (9/10/2012)

Tasks	Task Descriptions	Arun Kuppam	David Kurth	Sean McAtee	Ramesh Thammiraju	Smith Myung	Anurag Komanduri	Monique Urban	Brent Selby	Kevin Ebright-McKeehan	Julie Dunbar (DTC)	Brett Lethowski (TS)	Slade Engstrom (TS)	Wayne Mizek (TS)	Michael Wahlstedt (TS)	CS Labor	DTC Labor	TranSystems Labor	Labor Total	Labor Total (With overhead and fee)
		68.89	83.13	50.00	47.83	62.50	47.83	47.28	36.44	42.39	82.00	107.73	40.72	49.44	82.80					
7	Communication and Project Management	18	9	54	18							17			17	$5,551	$0	$3,239	$8,790	$26,851
1.A	Process Household Travel Survey	4	4	24		8	40		80							$7,137	$0	$0	$7,137	$22,553
1.B	Process Travel Time Study	4	2	12	60					24			50			$4,929	$0	$2,036	$6,965	$21,423
1.C	Complete Model Review	4	1	16	32	4	18	8	16	0	8	0	0	0	0	$4,762	$656	$0	$5,418	$16,453
1.D	~~Assess Current Model Estimation~~	0	0	0			0		0		0					$0	$0	$0	$0	$0
1	Assessment	12	7	52	92	12	58	8	96	24	8	0	50	0	0	$16,828	$656	$2,036	$24,938	$60,434
2.A	Revise Traffic Analysis Zone System			4										48		$290	$0	$2,373	$2,573	$7,454
2.B	Update Roadway Network Layer			8										40		$400	$0	$1,978	$2,378	$6,949
2.C	Update Transit Route System			8	32									16		$1,931	$0	$791	$2,722	$8,374
2.D	Demographic Estimates and Forecasts	16	8	8							40			280		$2,169	$3,280	$13,843	$19,292	$53,682
2	Data Collection and Development	16	8	28	32	0	0	0	0	0	40	0	0	384	0	$4,699	$3,280	$18,985	$26,964	$76,458
3.A	~~Route System Automation~~			0	0	0										$0	$0	$0	$0	$0
3.B	Update to TransCAD 6			8	20											$1,357	$0	$0	$1,357	$4,287
3.C	~~Enhance Ability to Distribute~~			0	0											$0	$0	$0	$0	$0
3.D	CS Value Added Enhancements			16	40											$2,713	$0	$0	$2,713	$8,573
3	Enhancements	0	0	24	60	0	0	0	0	0	0	0	0	0	0	$4,070	$0	$0	$4,070	$12,860
4.A	External Survey Processing	2		8	4	8	24									$2,377	$0	$0	$2,377	$7,511
4.B	Update All Component Models	2	2	8	24	16		16	24		10					$4,483	$820	$0	$5,303	$15,925
4	External Survey Processing and Model Estimation	4	2	16	28	24	24	16	24	0	10	0	0	0	0	$6,860	$820	$0	$7,680	$23,437
5.A	Validate Model	16	12	40	120	16			100		24		50			$16,486	$1,968	$2,036	$20,490	$62,165
5.B	Documentation and Report	20	6	32	16	8										$4,743	$0	$0	$4,743	$14,987
5.C	Package and Deliver			32	8				8							$2,274	$0	$0	$2,274	$7,185
5	Validation	36	18	144	144	24	0	0	108	0	24	0	50	0	0	$23,503	$1,968	$2,036	$27,507	$84,339
6.A	Coding Projects													40		$0	$0	$1,978	$1,978	$5,685
6.B	Running Scenarios													16		$0	$0	$791	$791	$2,274
6.C	Providing Outputs	4	4	4							20			120		$809	$1,640	$5,933	$8,382	$23,128
6	MTF Modeling	4	4	4	0	0	0	0	0	0	20	0	0	176	0	$809	$1,640	$8,701	$11,150	$31,085
Labor Total		**90**	**48**	**322**	**374**	**60**	**82**	**24**	**228**	**24**	**102**	**17**	**100**	**560**	**17**	**$62,321**	**$8,364**	**$34,997**	**$111,100**	**$315,465**
	Salary Increases Effective April 1															$1,615	$0	$0	$1,615	
	Labor Total with Inflation															$63,936	$8,364	$34,997	**$107,298**	
	Overhead (Labor * OH Rate)															$111,888	$7,946	$52,482	**$172,316**	
	Labor and Overhead Total															$175,824	$16,310	$87,480	**$279,614**	
	Fee (applied to labor and OH)															$21,099	$1,631	$13,122	**$35,852**	
	Travel															$6,600	$2,200	$2,640	**$11,440**	**$11,440**
	Employment Dataset (InfoUSA)																		**$0**	**$0**
	Total															**$203,523**	**$20,141**	**$103,241**	**$326,905**	**$326,905**

Overhead, Fee, and Travel Assumptions

	OH	FEE	Trips (@ $1,100)	Local Travel (2 trips, 400 miles, $0.55 / mile)
Cambridge Systematics	1.7500	0.1200	6	0
Dunbar Transportation Consulting	0.9500	0.1000	2	0
TranSystems	1.4996	0.1500	2	2

EXHIBIT E

[redacted]

CONTRACTOR ASSURANCE

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 State. 252), §504 of the Rehabilitation Act of 1973 (87 State. 3555) and the Americans with Disabilities Act of 1990 (42 USD 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 nine “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:

(Revised 07-29-1999)

(1) Compliance with Regulations: The consultant will comply with the Regulations of the Regulations 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 or 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 and 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

(Revised 07-29-1999)

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 are 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 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

(a) 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 and use such information in complying with this Order.

(9) Incorporation of Provisions: The consultant will include the provisions of paragraph (1) through (8) in every subcontract, including procurements of materials and lease of 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.

(Revised 07-29-1999)

EXHIBIT F

[redacted]

REQUIRED CONTRACT PROVISION

FEDERAL AID CONTRACTS
UTILIZATION OF DISADVANTAGED BUSINESSES

I. INTRODUCTION.

The specific requirements for the utilization of Disadvantaged Business Enterprises, hereinafter referred to as DBEs, are set forth in this Required Contract Provision and are imposed pursuant to 49 CFR Part 26, hereinafter referred to as the regulations. This provision meets or exceeds the regulatory requirements. The regulations always take precedence over normal industry practice.

A. ASSURANCE.

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, religion, age, disability, income status, veteran status or gender in the performance of the Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT 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 Kansas Department of Transportation deems appropriate.

B. DEFINITIONS.

For the purpose of this Required Contract Provision, the following words and phrases shall have the meanings as stated herein:

(1) Disadvantaged Business Enterprise (DBE) means a small business concern which is independently owned and controlled by one or more socially and economically disadvantaged individuals and which KDOT has certified as a DBE.

(2) Small business concern means a small business as defined by Section 3 of the Small Business Act and relevant regulations except that a small business concern shall not include any firms or affiliated firms owned and controlled by the same socially and economically disadvantaged individual or individuals whose value has average, annual gross receipts in excess of $22,410,000 over the previous three fiscal years.

(3) Owned and controlled means a business:

(a) Which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals, and

(b) Whose management and daily business operations are controlled by one or more such individuals.

(4) Socially disadvantaged individual means a person who is a citizen or lawful permanent resident of the United States, has suffered social disadvantage in education, employment, or business, and who is a(an):

(a) Black American (a person having origins in any of the black racial groups of Africa);

(b) Hispanic American (includes a person of Mexican, Puerto Rican, Cuban, Central or South American, or any Spanish or Portuguese culture or origin, regardless of race);

(c) Native American (includes a person who is American Indian, Eskimo, Aleut or Native Hawaiian);

(d) Asian-Pacific American (includes a person whose origin is from the original people of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands);

(e) Subcontinent Asian American (includes a person whose origin is India, Pakistan, Bangladesh, Bhutan, Nepal, Sri Lanka, or the Maldives Islands);
(f) Member of a group, or any other individual of any race or sex, found to be both economically and socially disadvantaged; or
(g) Women.

(5) Economically disadvantaged means an individual who has a personal net worth of less than $750,000 excluding the value of their ownership share of the applicant firm and personal residence. The individual has had diminished access to capital and credit compared to non-disadvantaged persons.

(6) Commercially useful function means the qualifying DBE owner performs manages and supervises subcontract work.

(7) Race and gender neutral measure means one that is used to assist any small business.

II. DBE CONTRACT GOALS.

A. KDOT strongly encourages all contractors to utilize DBE firms as subcontractors, suppliers, manufacturers, truckers, and brokers whenever possible and feasible. Greater voluntary participation will result in lower and fewer DBE contract goals. KDOT will set DBE contract goals only to meet the portion of its annual goal that is not met by race and gender neutral means and voluntary participation.

B. An eligible DBE is one who KDOT has certified and who is listed in the KDOT DBE directory located on the internet at: http://www.ksdot.org/doingbusiness.asp. KDOT also prints a paper directory quarterly, and Contractors may ask the KDOT Office of Civil Rights for a copy of the printed directory. However, as it is only published quarterly, Contractors should be aware that the printed directory may list DBE's who were decertified after the directory was printed, and these DBE's would not be considered eligible DBE's in a letting that followed decertification or when examining good faith efforts. Also, the printed directory will not list DBE's who have been certified after the directory was printed, but KDOT will consider these DBE's in a letting and when examining good faith efforts. Thus, the electronic directory controls as it is the most current information KDOT has available. Any bid proposal listing a firm that is not a KDOT certified DBE at the time of bidding will be considered nonresponsive.

C. Contractors shall, as a minimum, seek DBE firms working in the same geographic area in which they seek subcontractors for a given solicitation.

D. Contractors are required to make good faith efforts to replace a DBE subcontractor that is unable to perform successfully with another DBE firm. In order to ensure compliance with this requirement, any substitution of DBE subcontractors after the Contractor has submitted a bid to KDOT, must be approved by KDOT Office of Civil Rights. Substitutions will only be allowed for good and sufficient reasons. KDOT must receive a letter from the original DBE stating the reason for the DBE's inability to perform.

E. Contractors are also encouraged to use the services of banks owned and controlled by disadvantaged individuals.

F. When projects are State or Contractor tied, KDOT will construe DBE participation as if the tied projects are one project. To check DBE participation on tied projects the following method will be used:

(1) Add the DBE goal dollar amount for the individual tied projects. This becomes the required minimum dollar amount to be subcontracted to DBEs.

(2) If the total dollar amount actually subcontracted to DBEs on the tied contracts is equal to or greater than the minimum dollar amounts as computed above, it will be determined that the DBE goals have been met.

(3) If a State of Kansas funded project is tied to a federal aid funded project, the DBE contract goals can only be met by DBE subcontractors on the Federal Aid Project.

III. MEETING DBE CONTRACT GOAL CRITERIA.

The award of the Contract will be conditioned upon satisfaction of the requirements herein established. The apparent low bidder must either meet or exceed the DBE goals for the contract or satisfy KDOT that good faith efforts were made to meet the goals prior to the bid letting.

A. REQUIRED DBE PARTICIPATION INFORMATION.

All bidders are required to submit to KDOT with the bid proposal the DBE participation information described below on the form provided in the proposal.

(1) The names of KDOT certified DBE firms that will participate in the Contract (if none, so indicate);

(2) A description of the work each named DBE firm will perform (if none, so indicate);

(3) The actual dollar amount anticipated to be paid to each named DBE firm (if zero dollars, so indicate); except

(4) If the named DBE firm is a supplier, enter 60% of the actual dollar amount anticipated to be paid (if zero dollars, so indicate);

(5) The actual dollar amount (not to exceed 10 percent of DBE subcontract) to be paid ahead of work as DBE mobilization.

(6) For federal aid contracts with a zero DBE goal, list all subcontractors to be utilized, including DBE firms, if any.

B. GOOD FAITH DETERMINATION.

It is the bidder's responsibility to meet the DBE contract goals or to provide information to enable KDOT to determine that, prior to bidding, the bidder made good faith efforts to meet such goals.

(1) Good Faith Information Submittal. If the low bidder's required DBE information indicates that the DBE contract goals will be met, the contract will proceed toward award and the low bidder need not submit any further DBE information. Good faith documentation must be submitted within two working days of the bid opening. Example: if bids are opened on Wednesday at 2 p.m., the good faith documentation must be at KDOT Office of Civil Rights before 5 p.m. on Friday.

(2) KDOT Review. KDOT will review all information submitted to determine if the low bidder has met the DBE contract goals and, if not, whether the low bidder made sufficient good faith efforts to meet such goals. The determination of good faith efforts is made on a case-by-case basis and depends on the particular circumstances of the procurement. The issue KDOT will consider is whether the bidder took those steps, a reasonable bidder would have taken to actively and aggressively obtain DBE participation sufficient to meet the goal. A KDOT determination that the low bidder's information failed to show sufficient good faith shall be just cause for rejection of the bid. If the low bid is rejected, the above procedure will be applied to the next lowest bidder, and other bidders if necessary, until a bidder is found that meets the DBE contract goals or establishes that good faith efforts were made to meet the goal. KDOT reserves the right to reject all bids and re-advertise the Contract.

(3) Establishing Good Faith Efforts. To demonstrate good faith efforts to meet DBE contract goals, submit to KDOT documentation on the factors listed as (a) through (g). KDOT has assigned a percentage to each factor that shows the relative importance of each factor to KDOT and to the other

factors. These percentages are a guide only; the circumstances of a particular procurement may justify different percentages or consideration of factors not mentioned. In evaluating the reasonableness of the low bidder's efforts, KDOT may consider whether other bidders met the goal or failed to meet the goal. In evaluating the reasonableness of the low bidder's efforts, KDOT will consider all documentation submitted; yet, documentation created during the bidding process is more credible than documentation created after the letting.

(a) The bidder negotiated in good faith with interested DBEs. It is the bidder's responsibility to consider the available pool of certified DBEs when determining subcontract or supply needs. It is the bidder's responsibility to furnish DBEs with information about plans or specifications to facilitate the bid. Include names of DBEs considered, information given to the DBE, if any, and an explanation of why agreements could not be reached for DBEs to perform the work. (25%)

(b) The bidder selected portions of work for which KDOT has capable, certified DBE's to perform. This may include breaking out work items or subcontracting items the prime contractor normally performs. (20%)

(c) The bidder used good business judgment in rejecting a DBE quote, considering both price and capabilities. If a DBE quote represents a reasonable price for performing the work, the bidder should use that quote even though the DBE quote is higher than a non-DBE quote. However, bidders do not have to use excessive or unreasonable quotes. Before determining that a DBE quote is excessive, the bidder should inquire as to the reason for the disparity between the DBE and non-DBE quotes. The bidder should also evaluate what impact, if any, using a higher DBE price would have on the bidder's overall project bid. A higher DBE price may not be excessive or unreasonable if the price differential is a very small part of the project bid. (20%)

(d) The bidder solicited capable, certified DBEs through pre-bid meetings, advertising, telephone, mail, facsimile, e-mail, or a combination of the foregoing. The solicitation must have occurred within sufficient time to allow a DBE to respond. Follow up all initial contacts, whether the contact was solicited or unsolicited. If a DBE expresses an interest in the contract or a desire to quote and fails to submit a quote, follow up that contact, whether the contact was solicited or unsolicited. Receiving substantial unsolicited quotes may not be considered actively and aggressively pursuing DBE participation. (10%)

(e) The bidder assisted interested DBEs in obtaining equipment, supplies, or materials for the project being bid. (10%)

(f) The combinations of DBEs the bidder considered in trying to meet the goal. It is acceptable to use a portion of several DBE bids. (10%)

(g) The bidder assisted interested DBEs in obtaining bonding, credit, or insurance on the project being bid. (5%)

(4) Staff of KDOT's Office of Civil Rights and the Chief of Construction and Maintenance will review the documentation submitted and either accept or reject the good faith effort submittal.

(5) At the bidder's request, KDOT's Director of Operations will hold an informal hearing to discuss the bidder's good faith effort submittal. The bidder may have legal counsel present, at the bidder's expense. After the appeal hearing, the Director of Operations will issue the Agency's final administrative decision on whether the bidder made a good faith effort. The decision will be in writing and will explain the basis for the Agency's decision. This will be final agency action and a final order under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et. seq*. Any petition for judicial review shall be served on the Secretary of Transportation, Kansas Department of Transportation, 700 S.W. Harrison St., Topeka, KS 66603-3754.

C. COUNTING DBE PARTICIPATION TOWARD DBE CONTRACT GOALS.

DBE participation shall be counted toward meeting the DBE contract goals pursuant to this contract as follows:

(1) A contractor may count toward its DBE contract goals the total dollar value of a contract paid to an eligible DBE, including an approved DBE protégé.

NOTE: At the time the bid is submitted on the DBE goal sheet, list the actual amount intended to be paid to the DBE. On Form 259, submitted after award, list the same amount as in the contract line item. If this amount differs from the DBE subcontract amount, list the latter amount on the bottom of the form with an explanation.

(2) A DBE, bidding as a prime contractor, may count toward its DBE contract goals the total dollar value of the work actually performed by the DBE prime contractor, including the cost of supplies and materials the DBE obtains. *Example: A DBE contractor bids as a prime contractor. The contract specifies a $10,000.00 DBE goal. The DBE prime contractor performs $50,000 of the work with its own forces. The DBE prime contractor has met the $10,000 goal.*

(3) A contractor may count toward its DBE goals a portion of the total dollar value of a subcontract with an eligible DBE joint venture equal in proportion to the percentage of ownership and control of the DBE partner in the joint venture. *Example: A contract specifies a $5,000.00 DBE contract goal. Prime contractor bids $100,000.00 subcontracting with a joint venture DBE/non-DBE contractor for $20,000.00 of the work. The percentage of ownership and control of the DBE/non-DBE joint venture is 25% DBE and 75% non-DBE. The prime contractor may count $5,000.00 ($20,000.00 x .25; i.e. total dollar value times the percentage of DBE ownership) toward the DBE contract goal, thus fulfilling the DBE requirements of the contract.*

(4) If a non-DBE contractor and DBE contractor form a joint venture and bid as a prime contractor, the joint venture contractor shall fully meet the DBE contract goals specified in the project special provision. The joint venture contractor may count toward its DBE contract goals the total dollar value of the work actually performed by the DBE participant in the joint venture.

Example: A non-DBE contractor forms a joint venture with a DBE contractor and the joint venture bids the project as a prime contractor. The DBE contract goal is $10,000.00. The DBE participant in the joint venture performs $50,000 of the work with its own forces. The joint venture has met the $10,000 goal. Example: A non-DBE contractor forms a joint venture with a DBE contractor and the joint venture bids the project as a prime contractor. The DBE contract goal is $100,000.00. The DBE participant in the joint venture performs $80,000 of the work with its own forces. The joint venture must obtain the remaining $20,000 in goal through use of another certified DBE firm, or show good faith efforts if the joint venture fails to meet the $100,000 goal.

(5) A contractor may count toward its DBE goals 60 percent of its expenditures for materials and supplies obtained from a DBE regular dealer, and 100 percent from a DBE manufacturer. A letter must be submitted to KDOT, detailing the amount, but the amount does not count as a subcontracted percentage.

(a) A manufacturer is a firm that operates a facility that produces goods from raw material on the premises.

(b) A regular dealer is a firm that owns, operates, or maintains a store, or warehouse where materials are stocked and regularly sold to the public. A regular dealer of bulk items (sand, gravel, etc.) need not stock the product if it owns or long-term leases distribution equipment. The supply of structural steel, steel assemblies and petroleum products do not count toward any KDOT DBE goal. A dealer must be responsible for material quality control and must deliver with its own or long term leased equipment to count toward the DBE goal.

(6) A contractor may count toward its DBE goals the following expenditures to DBE firms that are not manufacturers or regular dealers:

(a) The commission charged for providing a bona fide service in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract, provided the commission is reasonable and customary.

(b) The commissions charged for bonds or insurance provided by a DBE broker for the specific performance of the contract, provided the fee is reasonable and customary. A letter must be submitted detailing the amount, but does not count as a subcontracted percentage.

(7) A contractor may count toward its DBE goals the amount paid to a DBE trucker for transportation or delivery services.

(a) A DBE trucker who picks up a product at point A and delivers the product to the contractor at point B provides a delivery service. The full amount paid for this service counts toward the DBE goal.

(b) Some DBE truckers are also a regular dealer (supplier) of a bulk item. In this case, the amount paid for the material delivered will count as 60 percent toward the DBE goal. The DBE trucker is responsible for the quality of the material.

(c) For DBE truckers or suppliers to be credited toward DBE contract goals, the contractor must submit a letter to KDOT detailing all information formerly found on Form 259, prior to the start of the trucking or supply of material and requesting DBE subcontract credit.

D. COMMERCIALLY USEFUL FUNCTION.

The prime contractor is responsible for ensuring that DBE firms under subcontract to meet a DBE goal perform a commercially useful function (CUF). Failure to fulfill this obligation is a breach of contract and KDOT may invoke the sanctions listed in Section IV (Sanctions). The three criteria for a CUF are:

(1) The DBE firm shall manage the work through personal direct supervision by the DBE owner or a skilled, knowledgeable, full-time superintendent. Management includes scheduling work, ordering equipment and materials, hiring and firing employees, and submitting all required forms and reports. The DBE is not in compliance with this provision if the DBE subcontracts out part or all of the work to another entity.

(2)The DBE shall own all equipment, long term lease all equipment, or own some equipment and long term lease the remaining equipment except for specialized equipment as noted below.

(a) If the DBE leases equipment, the DBE shall have a written lease that gives the DBE full control of the equipment during the lease period. The DBE shall use its own workers to operate leased equipment.

(b) A DBE may enter into long term leases with companies operating as prime contractors. The DBE is not in compliance with this provision if the DBE leases equipment from the prime contractor on the project for that project only.

(c) Exception for specialized equipment: The DBE may lease short term specialized equipment such as a crane from another contractor or third party if this equipment is necessary for the DBE to perform its work and the equipment is of such a nature that it is not economically feasible or practical for the DBE to lease the equipment long term. The contractor shall bill the DBE for this equipment and the DBE shall pay the contractor for the equipment. The DBE is not in compliance with this provision if the contractor deducts from the DBE's pay estimate specialized equipment costs rather than submitting an invoice to and receiving payment from the DBE.

(3) The DBE shall negotiate the cost of, arrange delivery of, and pay for materials, supplies, labor, and equipment. Invoices shall be billed to the DBE and paid by the DBE.

(4) KDOT will not count towards goal or give DBE contract goal credit for the following:

(a) Monies the prime contractor pays directly for supplies, materials, labor or equipment on the DBE's behalf except for two-party checks approved under Section III.E below.
(b) Costs deducted from a DBE's pay estimate for supplies, materials, labor or equipment the prime contractor or its affiliate provided.
(c) Costs incurred for equipment the DBE leases from the contractor on the project if the DBE is using the equipment for that project only and the equipment is not part of a long term lease agreement.
(d) Costs associated with a portion of a bid item that the Agency is unable to measure clearly.
(e) Costs incurred for work subcontracted outside normal industry practices, just to meet a goal.

(5) KDOT's determination that a DBE is not performing or did not perform a CUF is not appealable to the US Department of Transportation. KDOT's determination will be final agency action and a final order under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et. seq*. Any petition for judicial review shall be served on the Secretary of Transportation, Kansas Department of Transportation, 700 S.W. Harrison St., Topeka, KS 66603-3754.

E. BUSINESS INTEGRITY

Any person or entity will be found to be out of compliance with this required contract provision if any investigation reveals a commission or omission of any act of such serious or compelling nature that the act indicates a serious lack of business integrity or honesty. Such commission or omissions include, but are not limited to:

(1) Violating any applicable law, regulation, or obligation relating to the performance of obligations incurred pursuant to an agreement with a recipient under a KDOT financial assistance program or,

(2) Making, or procuring to be made, any false statement or using deceit to influence in any way any action of KDOT.

F. TWO PARTY CHECKS.

To comply with the current regulation, KDOT is implementing the following two party check procedures. The prime contractor is responsible for following the procedure and for ensuring that DBE subcontractors follow the procedure.

(1) The DBE owner shall make the request for a two party check to the Office of Civil Rights and shall explain the benefit to the DBE firm.

(2) The prime contractor shall send the check to the DBE owner who will endorse and forward the check to the supplier. This should be done within the 10 day prompt pay timeframe.

(3) The amount of the check should not exceed the amount of material paid by KDOT on the latest estimate. *For example if the estimate was taken on 7/23, pay the material bill through 7/23 not through 7/31*.

(4) Two party checks shall be issued only long enough to establish credit for the DBE firm.

(5) KDOT will not count towards goal or give DBE contract goal credit for two party checks that have not been pre-approved by KDOT.

IV. SANCTIONS.

If KDOT finds any contractor, sub-contractor, DBE, joint venture, or mentor/protégé to be out of compliance with this required contract provision, KDOT may impose one or more of the following sanctions:

(1) Withhold payment of progress payments until the contractor or DBE contractor complies with the payment requirements of this Special Provision.

(2) Remove the non-complying DBE from the DBE directory until the DBE shows the company is meeting the requirements necessary to perform a CUF, including payment of all bills.

(3) Deny goal credit as previously stated for failure to replace a non-performing DBE with another DBE (unless good faith effort was made), failure to meet the requirements necessary to perform a CUF, or failure to follow two party check procedures.

(4) Assess and deduct as liquidated damages the monetary difference between the DBE goal amount and the amount actually paid to the DBEs for which KDOT has allowed DBE goal credit.

(5) Reject the bidder's bid if the bidder failed to meet the DBE goal and failed to show good faith effort to meet the goal.

(6) Refer the matter to the Office of the Attorney General, the US Department of Justice, or both for follow-up action.

(7) Enforce all other remedies KDOT has under other contract provisions such as contract termination, contractor suspension, contractor debarment, and sanctions for failing to pay promptly.

01-26-09 OCR (DW/CDB)
Jul-09 Letting

EXHIBIT G

Project No._____
Contract No. _____

07-19-80-R12 (MPO)
Sheet 1 of 1

REQUIRED CONTRACT PROVISION
DBE CONTRACT GOAL

The total dollar goal to be subcontracted to KDOT-Certified DBE firms on this contract is $ 20,000 .

List all KDOT-Certified DBE subcontractors to be utilized. For each DBE subcontractor, identify the line item(s) of work from the Unit Prices List and the dollar value of the work to be subcontracted to the DBE.

IDENTIFICATION OF DBE PARTICIPATION

Name of KDOT-Certified DBE Subcontractor	Type of Work	$ Value of work
Dunbar Transportation Consulting	Assisting with model review, facilitating communication with local jurisdictions	$ 22,120
	regarding forecast demographic data, assisting with model validation, and providing input in the MTP modeling tasks.	$
		$
		$
		$
		$

Total KDOT-Certified DBE $ 22,120

Cambridge Systematics, Inc.

999 18th Street, Suite 3000

Denver, CO 80202

(Prime Bidding Consultant Name and Address)

If $ Value of Work is zero, please attached the Prime Bidding Consultant's Good Faith Effort documentation.

A list of KDOT-Certified DBEs can be found in the Directory of Disadvantaged Business Enterprises at KDOT's website:**http://www.ksdot.org/divAdmin/DBEConstruction/dbedir.aspx**

Second Reading Ordinances for October 16, 2012 (first read on October 2, 2012)

A. <u>Public Hearing and Tax Exemption Request (Mojack Holdings, LLC/Mojack Distributors, LLC</u>) (District I)

ORDINANCE NO. 49-352

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 Mojack Holdings, LLC/Mojack Distributors, LLC, so exempted.

B. <u>Amendments to Certain Sections of the Park Rules and Regulations, Granting the Director Authority over Recreational Easements</u> (All Districts)

ORDINANCE NO.49-353

An ordinance amending sections 9.03.010 and 9.03.500 of the code of the City of Wichita, Kansas, pertaining to definitions as applied to the park rules and regulations and prohibiting possession and consumption of alcoholic beverages upon recreational easements.

City of Wichita
City Council Meeting
October 16, 2012

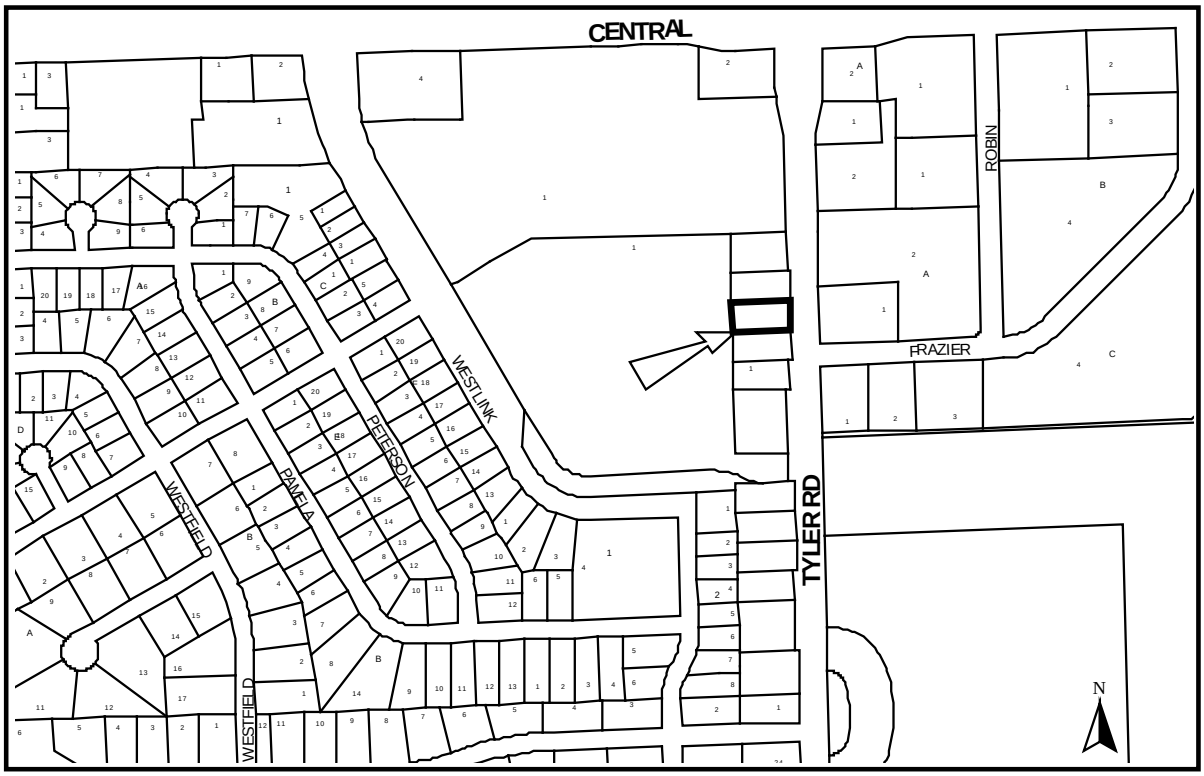
TO: Mayor and City Council Members

SUBJECT: ZON2000-00045 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") generally located south of Central and west of Tyler Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve a one-year extension of time to complete platting to October 16, 2013.



Background: On November 14, 2000, the City Council approved a zone change request from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") on property located south of Central and west of Tyler Road. Approval of the zone change request was subject to the condition of platting the property within one year. Since the zone change was approved in 2000, nine platting extensions have been granted. The last request extended the platting deadline to September 13, 2012. The applicant requests an additional one-year extension of time to complete platting which requires City Council approval.

Analysis: Staff recommends that a one-year extension of time, by October 16, 2013, to complete platting be granted. The City Council may deny the request for an extension of time to complete platting. Denying the extension would declare the zone change null and void and would require reapplication and rehearing if the property owner still desired a zone change.

Financial Considerations: There are no financial considerations with this request.

Goal Impact: The future impact of the zone change, that will occurr when the site is platted, will be to promote Economic Vitality.

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

Recommendations/Actions: Approve a one-year extension of time to complete platting by October 16, 2013.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

SUBJECT: ZON2012-00022 – City zone change from MF-29 Multi-Family Residential ("MF-29"), GO General Office ("GO") and LC Limited Commercial ("LC") to TF-3 Two-Family Residential ("TF-3"); generally located north of 55th Street South on the west side of Seneca Street. (District IV)

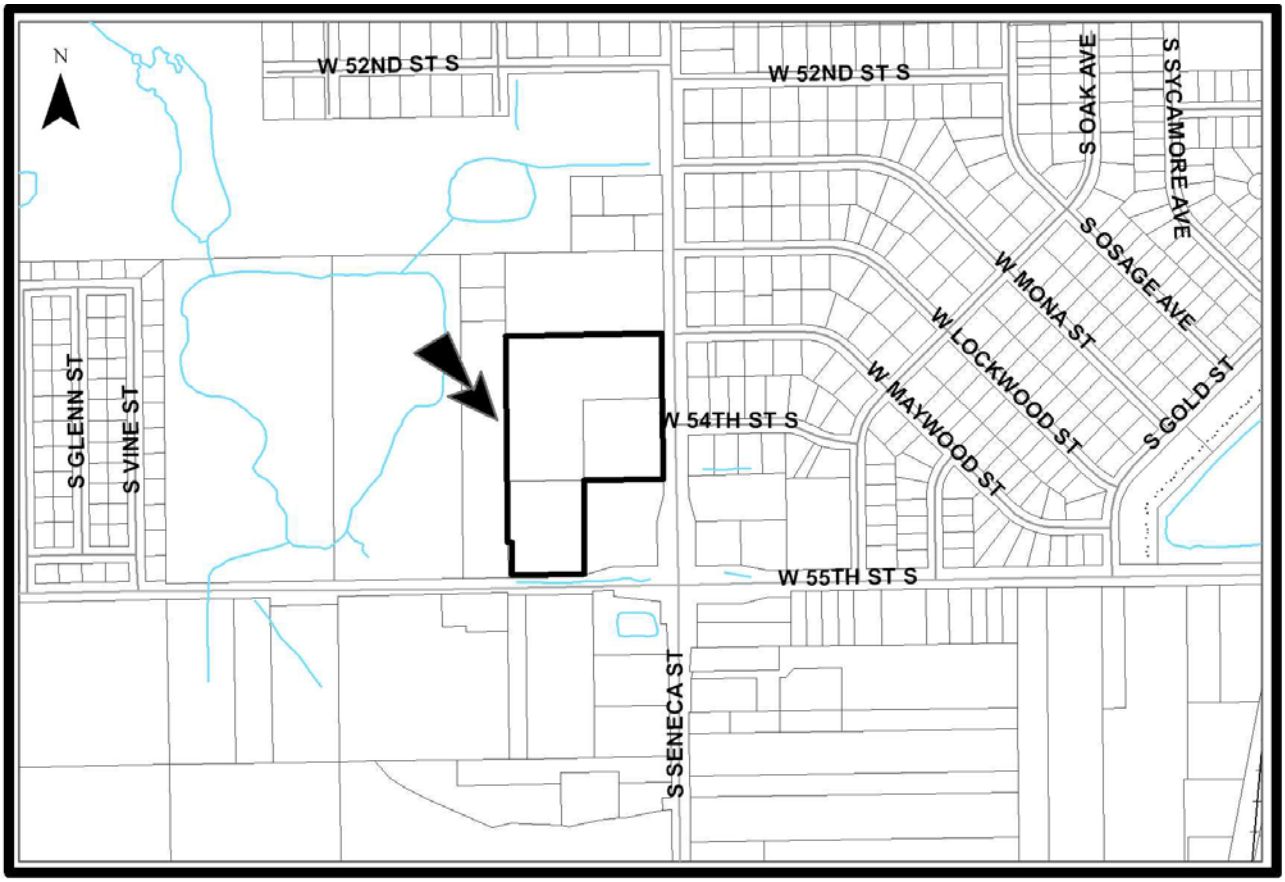
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approve (12-0).

DAB IV Recommendation: Approve (unanimously)

MAPD Staff Recommendation: Approve.



Background: The applicant is requesting TF-3 Two-Family Residential ("TF-3") zoning on the undeveloped 10.5-acre MF-29 Multi-Family Residential ("MF-29"), GO General Office ("GO") and LC Limited Commercial ("LC") zoned site. The site's legal description is Lots 1, 2 and 4 of the Westney Addition; recorded December 8, 1988. The undeveloped Lot 3 of the Westney Addition is the corner lot (northwest corner of 55th Street south and Seneca Street) of this subdivision and will retain its current LC zoning. The applicant proposes a duplex development, although the MF-29, GO, and LC zoning districts permit duplexes by right. A lending institution may require the zoning to match the development.

The undeveloped site occupies most of the northwest corner of 55th Street South and Seneca Street. The dominate feature of this area is the large SF-5 Single-Family Residential ("SF-5") zoned public park land with its sand pits, open spaces and playing fields. The SF-5 zoned Southland Public Park with its sand pit used for fishing abuts the west side of the site. A small SF-5 zoned manufactured home subdivision is located on the west side of the park and the USD 261 public school development, anchored by the City of Haysville's Campus High School, finishes out development west of the site. A multiple tract SF-5 zoned single-family residence abuts the north side of the site, with adjacent SF-5 park land and urban scale single-family residences located further north. Urban scale SF-5 zoned single-family residential development makes up most of the development located east, across Seneca, of the site. However, directly east of the site on the northeast corner of 55th and Seneca there is a small group of LC zoned apartments and MF-29 and TF-3 zoned duplexes, clustered around a LC zoned convenience store. Development located south of the site, across 55th, includes undeveloped LC zoned property, large and small tract LC and SF-5 zoned single-family residences, a LC zoned church, a GC General Commercial ("GC") zoned contractor's yard, a LC zoned bar (looks vacant) and SF-5 and SF-20 Single-Family Residential ("SF-20") zoned agricultural land.

Analysis: At the MAPC meeting held September 6, 2012, the MAPC voted (12-0) to approve the request for TF-3, as a consent item, subject to replatting within a year of approval by the governing body. At the DAB IV meeting held September 10, 2012, the DAB voted unanimously to approve the request for TF-3 zoning subject to replatting within a year of approval by the governing body. No one spoke against the request at the DAB meeting. No protests were received during the two-week protest period following the MAPC hearing.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application will promote Economic Vitality.

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

Recommendation/Actions: Adopt the findings of the MAPC and approve the zone change, subject to replatting within a year of approval by the governing body; instruct the Planning Department to forward the ordinance for first reading when the replatting is completed (simple majority required).

Attachments:
- Ordinance
- MAPC Minutes

OCA 150004

ORDINANCE NO. 49-386

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. ZON2012-00022

Zone change from MF-29 Multi-Family Residential (”MF-29”), GO General Office (“GO”) and LC Limited Commercial (“LC”) to TF-3 Two-Family Residential (‘TF-3’) on an approximately 10.5-acres acre property described as:

Lots 1, 2 & 4, Westney Addition, Wichita, Sedgwick County, Kansas; generally located north of 55th Street South and west of Seneca Street.

SUBJECT TO REPLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNNG BODY

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.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorf, City Attorney

Agenda Item No. II-29

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

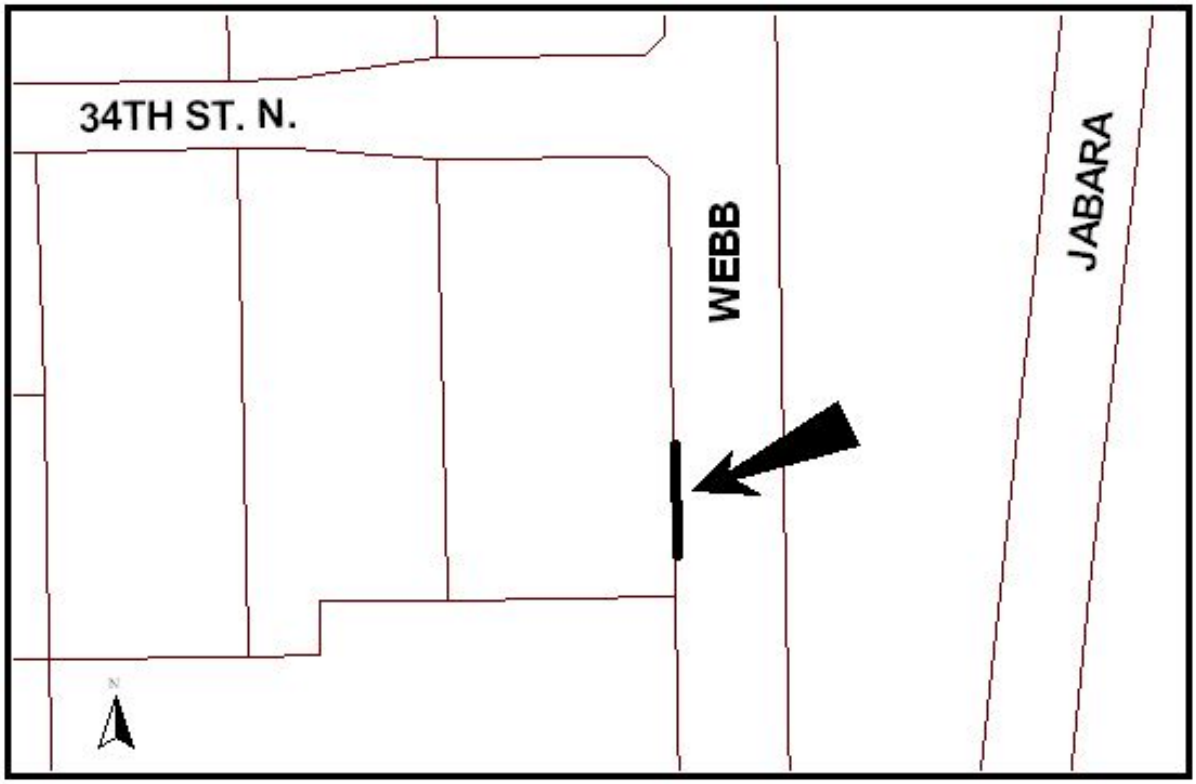
SUBJECT: VAC2012-00027 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



Background: The applicant is requesting consideration to vacate a portion of the platted access control on Lot 24, Comotara Industrial Park 5th Addition to allow one 30-foot wide drive in the north 115 feet of the south 155 feet of the site onto Webb Road. The applicant proposes a lot split, which has been filed at this time. Lot 24 has 438.86 feet of Webb Road frontage. The plat permits one drive onto Webb, "as determined by the City Engineer," and that drive is currently located approximately 50 feet south of the 34th Street North – Webb Road intersection. Webb Road is a four-lane arterial, without turn lanes or raised median at this location. Jabara Airport is located directly east of Lot 24, across Webb Road. There is platted complete access control on the Colonel James Jabara Airport Addition (Jabara Airport) between 35th Street North and Jabara Road, which is the portion of the Colonel James Jabara Airport Addition that is located directly east of Lot 24. Subdivision standards requires a 200-foot offset for drives not lined up on the opposite sides of an arterial and not having conflicting left turns; there are no permitted drives opposite Lot 24, thus no conflicting left turns.

Analysis: The MAPC voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Goal Impact: The application supports the City's goal to ensure Efficient Infrastructure.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order and the drive approach certificate. A certified copy of the Vacation Order and the drive approach certificate will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the MAPC and approve the Vacation Order, and authorize the necessary signatures.

Attachment: None.

Agenda Item No. II-30

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

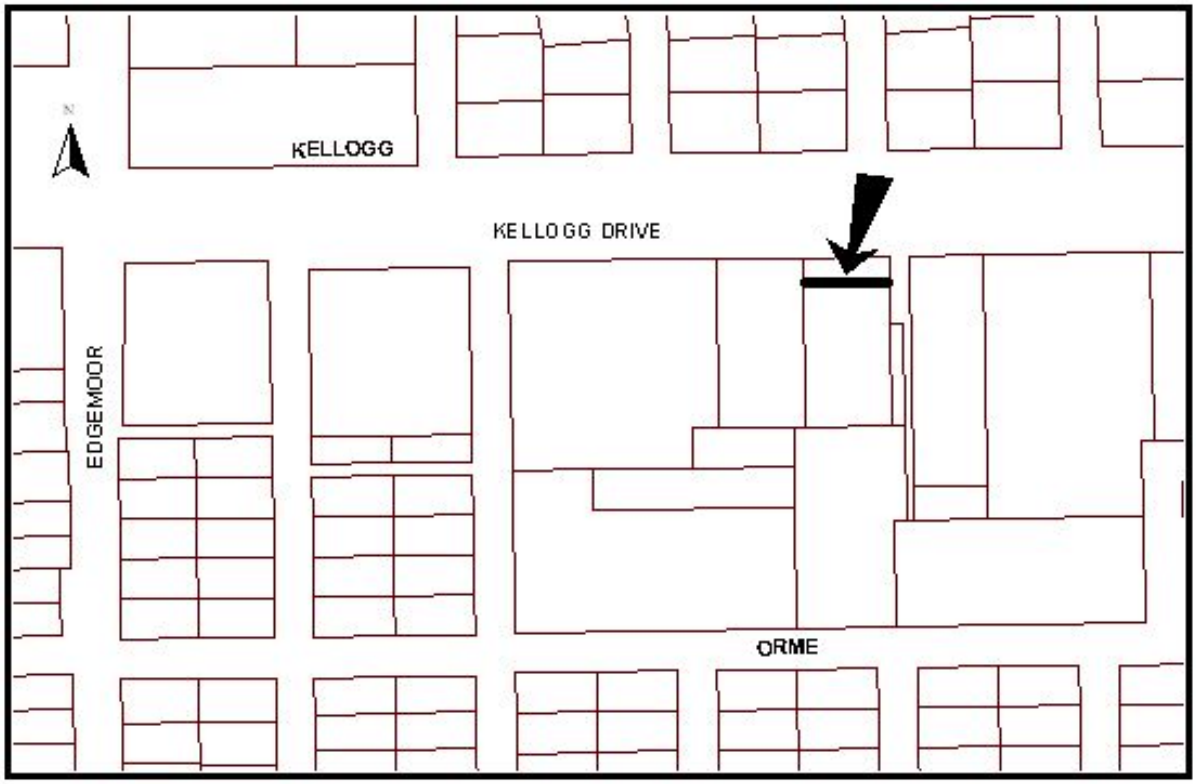
SUBJECT: VAC2012-00029 - Request to vacate a portion of a platted setback; generally located east of Edgemoor Drive, south of Kellogg Street/US 54 and west of Fabrique Drive. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



Background: The applicant proposes to vacate the south 7 feet 4 inches on a portion of the platted 35-foot front yard setback, on Lot 1, Davis-Moore 5th Addition. The site is also located within the Davis Moore Community Unit Plan, CUP DP-183. There has been a long standing building encroachment into this setback as shown on 1997 aerial photos and the CUP DP-183 drawing. The UZC's minimum front yard setback for the SF-5 zoning district is 25 feet. The minimum front setback for a CUP is 35 feet. An adjustment to the CUP can reduce the CUP's setback, which would reflect (if approved) the vacated setback. There are no platted easements within the platted setback; utilities are located in the abutting street ROW. There are no utilities are within the described portion of the platted setback. The Davis-Moore 5th Addition was recorded with the Register of Deeds September 20, 1988.

Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Goal Impact: The application supports the City's goal to ensure Efficient Infrastructure.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the MAPC and approve the Vacation Order, and authorize the necessary signatures.

Attachment: None.

Agenda Item No. II-31

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

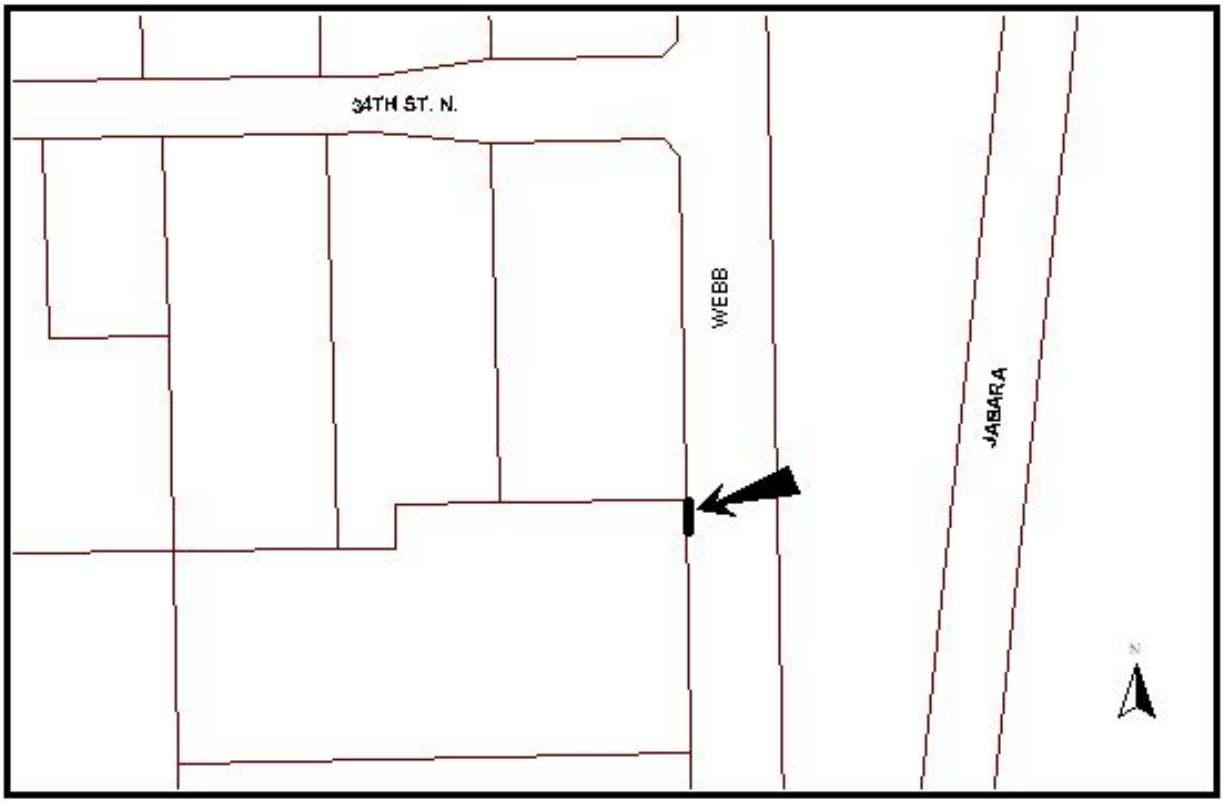
SUBJECT: VAC2012-00030 - Request to vacate a portion of platted access control; generally located on the west side of Webb Road and south of 34th Street North. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



Background: The applicant is requesting consideration to vacate the portion of the platted access control on Lot 3, Block 4, Mediterranean Plaza Addition to allow one additional 40-foot wide drive in the north 40 feet of the site onto Webb Road. The applicant proposes the additional drive to improve access onto and off the site and to improve vehicular circulation within the site. The plat permits one drive onto Webb and that drive is currently located in the south 45 feet of the site. The subject site has 309.64 feet of Webb Road frontage. The proposed drive will be located approximately 240 feet from the site's existing drive. Webb Road is a four-lane arterial, without turn lanes or raised median at this location. Jabara Airport is located directly east of the site, across Webb Road. There is platted complete access control onto Jabara Airport from Webb Road, between 35th Street North and Jabara Road, which is the portion of Jabara Airport that is located directly east of the site; Colonel James Jabara Airport Addition, recorded August 23, 1983. Subdivision standards requires a 200-foot offset for drives not lined up on the opposite sides of an arterial and not having conflicting left turns; there are no permitted drives opposite the site, thus no conflicting left turns.

Analysis: The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Goal Impact: The application supports the City's goal to ensure Efficient Infrastructure.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order and the drive approach certificate. A certified copy of the Vacation Order and the drive approach certificate will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the MAPC and approve the Vacation Order, and authorize the necessary signatures.

Attachment: None.

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

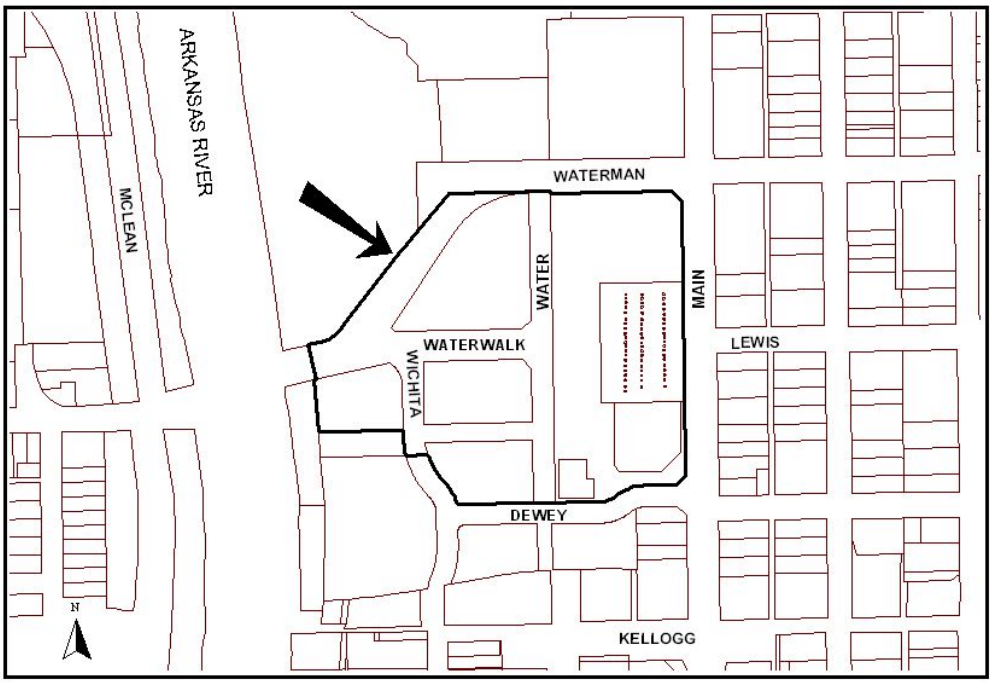
SUBJECT: SUB2011-00032 -- Plat of WaterWalk Phase 3 Addition located north of Kellogg, on the west side of Main. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)



Background: The site, consisting of eight lots on 16.9 acres, is a replat of the WaterWalk Phase 2 Addition. The site is zoned PUD Planned Unit Development.

Analysis: Water and sewer services are available to serve the site. The City of Wichita is part owner of the property.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Goal Impact: Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

Legal Considerations: There are no legal considerations associated with the plat.

Recommendations/Actions: It is recommended that the City Council approve the plat, authorize the necessary signatures for approval and ownership of the plat.

Attachments: none

City of Wichita
City Council Meeting
October 16, 2012

TO: Mayor and City Council

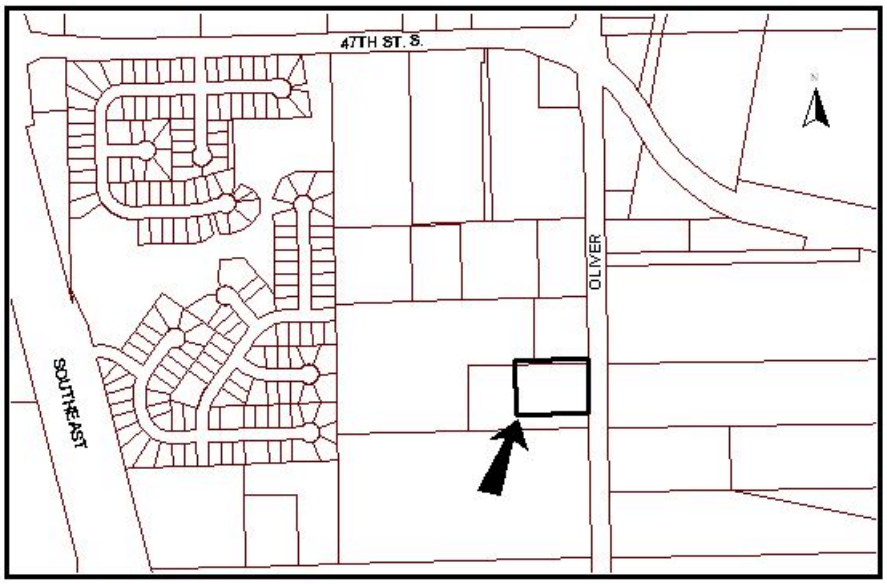
SUBJECT: SUB2012-00017 -- Plat of Sedgwick County Fire Station No. 36 Addition located on the west side of Oliver, 1500 feet south of 47th Street South. (County)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)



Background: The site, consisting of one lot on 2.26 acres, is located within three miles of the City of Wichita and is zoned LI Limited Industrial.

Analysis: Sanitary sewer service is available to serve the site. Water improvements will be constructed by a private project.

The applicant has submitted a Sanitary Sewer Easement. A Cross-Lot Drainage Agreement has been provided as requested by County Public Works. The applicant has submitted a Drive Approach Closure Certificate regarding the driveways required to be closed by access controls, which are being dedicated by the plat. The site is within the noise impact area of McConnell Air Force Base; therefore the applicant has submitted an Avigational Easement and Restrictive Covenant to assure that adequate construction methods will be used to minimize the effects of noise pollution.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Goal Impact: Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

Legal Considerations: The Sanitary Sewer Easement, Cross-Lot Drainage Agreement, Drive Approach Closure Certificate, Avigational Easement and Restrictive Covenant have been approved as to form by the Law Department and will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat and authorize the necessary signatures.

Attachments: Sanitary Sewer Easement
Cross-Lot Drainage Agreement
Drive Approach Closure Certificate
Avigational Easement
Restrictive Covenant

COPY

SANITARY SEWER EASEMENT

THIS SANITARY SEWER EASEMENT executed this 5 day of SEPTEMBER, 2012, and delivered to the Board of County Commissioners of Sedgwick County, Kansas, acting as the Governing Body of the Sewer District (hereinafter called "County") by Triple J of Wichita, L.L.C., a Kansas limited liability company, (hereinafter called "Owner").

WITNESSETH:

That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Owner hereby grants, bargains, sells and conveys to County a permanent easement in, over, across and upon the following-described premises, to wit:

Commencing at the northeast corner of the Southeast Quarter of the Northeast Quarter of Section 23, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; FIRST COURSE, thence southerly along the east line of said Northeast Quarter, 591.00 feet; SECOND COURSE, thence westerly with a deflection angle to the right of 89°13'26" and parallel with the north line of the Southeast Quarter of said Northeast Quarter, 418.00 feet for a point of beginning; THIRD COURSE, thence westerly with a deflection angle to the left of 00°54'17", 906.88 feet to a point on the west line of the Southeast Quarter of said Northeast Quarter, said west line also being the east line of Deer Lake Estates, an Addition to Sedgwick County, Kansas; FOURTH COURSE, thence northerly with a deflection angle to the right of 91°33'49" and along the west line of the Southeast Quarter of said Northeast Quarter, (and along the east line of said Deer Lake Estates), 20.01 feet to a point 20.00 feet normally distant northerly of the previously described THIRD COURSE; FIFTH COURSE, thence easterly with a deflection angle to the right of 88°26'11" and parallel with said previously described THIRD COURSE, 906.92 feet to a point 418.00 feet westerly of the east line of said Northeast Quarter as measured parallel with the north line of the Southeast Quarter of said Northeast Quarter; SIXTH COURSE, thence southerly parallel with the east line of said Northeast Quarter, 20.01 feet to the point of beginning.

for the purpose of constructing and maintaining a sanitary sewer system according to plans and specifications now on file in the office of the Sedgwick County Engineer.

Triple J of Wichita, L.L.C.

By: _____
Morgan Koon, General Counsel

STATE OF KANSAS)
SEDGWICK COUNTY) SS:

BE IT REMEMBERED, that on this 5 day of SEPTEMBER, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came MORGAN KOON as GENERAL COUNSEL of Triple J of Wichita, L.L.C., a Kansas limited liability company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

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

Shanae Howie
Notary Public

(My Commission Expires: 8/1/16)

SHANAE HOWIE
Notary Public
State of Kansas
My Commission Expires 8/1/16

Approved as to form:

Gary E. Rebenstorf, Director of Law

ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS THIS _____DAY OF ____ _____ 2012.

RECOMMENDED:

_____
DAVID C. SPEARS, P.E., DIRECTOR,
BUREAU OF PUBLIC SERVICES
COUNTY ENGINEER

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

_____
TIM NORTON, SECOND DISTRICT
CHAIRMAN

APPROVED TO FORM:

_____
RICHARD EUSON
COUNTY COUNSELOR

ATTEST:

_____
KELLY B. ARNOLD, COUNTY CLERK

COPY

CROSS LOT DRAINAGE AGREEMENT

THIS AGREEMENT made this 19th day of September, 2012, made by and between Triple J of Wichita, L.L.C., a Kansas limited liability company, and Sedgwick County Fire District Number One, a Kansas political subdivision

WITNESSETH

WHEREAS, Triple J of Wichita, L.L.C. is the owner of the following described property:

PARCEL 'A'

The South Half of the Southeast Quarter of the Northeast Quarter except the east 50 feet for road, Section 23, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick, County, Kansas.

and

WHEREAS, Sedgwick County Fire District Number One is the owner of the following described property:

PARCEL 'B'

Lot 1, Block A,
Sedgwick County Fire Station No. 36 Addition,
Sedgwick County, Kansas

WHEREAS, said Parcel "A" and Parcel "B" are contiguous to and lie directly adjacent to each other; and

WHEREAS, said Parcel "B" presently drains over, across, and through said Parcel "A"; and

WHEREAS, said Sedgwick County Fire District Number One is presently in the process of platting said Parcel "B" and the Wichita-Sedgwick County Metropolitan Area P Cross Lot Drainage Agreement

Planning Commission has required this drainage agreement as a condition of approval for said plat; and

WHEREAS, the owner of Parcel "A" desires to provide perpetual cross lot drainage for the benefit of Parcel "B" over, across, and through Parcel "A".

NOW, THEREFORE, in consideration of the premises:

1. The owner of Parcel "A" hereby subjects said Parcel "A" to the following agreement:

That Parcel "B" may drain over, across, and through Parcel "A" as necessary in accordance with a final drainage plan on file with the Sedgwick County Public Works Department.

2. The agreement hereby established shall run with the land and shall be binding upon and inure to the benefit of the above owners, and all subsequent owners and occupiers of the above-described Parcels.

EXECUTED the day and year first above written.

Triple J of Wichita, L.L.C.

By:_____
Morgan Koon, General Counsel

Sedgwick County Fire District Number One

By:_____
Tim R. Norton, Second District,
Chairman

Approved As To Form

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

BE IT REMEMBERED, that on this 5 day of SEPTEMBER, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came MORGAN KOON as GENERAL COUNSEL of Triple J of Wichita, L.L.C., a Kansas limited liability company, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf of the limited liability company.

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

Shanae Howie
Notary Public

(My Commission Expires: 8/1/16)

SHANAE HOWIE
Notary Public
State of Kansas
My Commission Expires 8/1/16

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

BE IT REMEMBERED, that on this 25th day of September, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Tim R. Norton, Second District, as Chairman of the Sedgwick County Fire District Number One, a Kansas political subdivision, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said political subdivision.

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

Carol S. Cole
Notary Public

(My Commission Expires: 7-23-15)

Approved as to form:

CAROL S. COLE
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 7-23-15

Gary E. Rebenstorf, Director of Law

COPY

DRIVE APPROACH CLOSURE CERTIFICATE

Sedgwick County)
) SS
State of Kansas)

Sedgwick County Fire District Number One, a Kansas political subdivision, owner(s) of that certain real property to be known as Lot 1, Block A, Sedgwick County Fire Station No. 36 Addition, Sedgwick County, Kansas, is in the process of platting said property, and does hereby acknowledge that in accordance with the requirements of the platting process as set forth by the Wichita-Sedgwick County Metropolitan Area Planning Commission, any existing drive approaches on Oliver, in excess of the two allowed per said platting requirements shall be closed.

This is to place on notice the owner(s) of the above-described property and subsequent owners thereof that, as a result of the above-cited platting requirements, said owner and subsequent owners thereof are responsible for seeing that such drive approach or approaches are removed and closed per Sedgwick County or the appropriate governing body specifications for such work, and that sufficient guaranty of such closure(s), in a form acceptable to the appropriate governing body (e.g. – bond, cash, letter of credit, etc.) and/or acknowledgement that the appropriate governing body may withhold the issuance of an occupancy permit for any future building construction, will be a pre-condition of the issuance of any future building permit for all development on the above-described property.

Signed this 19th day of September, 2012.

Sedgwick County Fire District Number One

By: Jim R. Norton

Jim R. Norton, Second District Chairman

Approved As To Form

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this 25th day of September, 2012, before me, the undersigned, a Notary Public in and for the State and County aforesaid, came Tim R. Norton, Second District, Chairman of the Sedgwick County Fire District Number One, a Kansas political subdivision, to me personally known to be the person who executed the foregoing instrument, and duly acknowledged the execution of the same, for and on behalf and as the act and deed of said political subdivision.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Carol S. Cole
Notary Public

My Appointment Expires: 7-23-15

CAROL S. COLE
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 7-23-15

Approved as to form:

Gary E. Rebenstorf, Director of Law

COPY

AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, this 19th day of September 2012, by Sedgwick County Fire District Number One, a Kansas political subdivision, GRANTOR hereof, does hereby grant a permanent Avigational Easement to the public authority authorized by Law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "Navigable Airspace" as defined by the Federal Aviation Act of 1958, over all the following-described real estate, to-wit:

SEDGWICK COUNTY FIRE STATION NO. 36 ADDITION
Lot 1, Block A

By virtue of this easement, the grantor, for and on behalf of the Grantor and all successors in interest to any and all of the real property above-described, waives as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights nor is it to be construed to grant any right to private persons or corporations.

"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include air space needed to insure aircraft safety during take-off and landing.

To have and to hold said easement forever.

EXECUTED the day and year first above written.

Sedgwick County Fire District Number One

By: Jim R. Norton
Tim R. Norton, Second District Chairman

Approved As To Form

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 25th day of September, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Tim R. Norton, Second District, Chairman of the Sedgwick County Fire District Number One, a Kansas political subdivision, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said political subdivision.

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

Carol S. Cole
Notary Public

(My Commission Expires: 7-23-15)

CAROL S. COLE
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 7-23-15

Approved as to form:

Gary E. Rebenstorf, Director of Law

COPY

RESTRICTIVE COVENANT

THIS DECLARATION made this 19th day of September, 2012, by Sedgwick County Fire District Number One, a Kansas political subdivision, the "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

SEDGWICK COUNTY FIRE STATION NO. 36 ADDITION
Lot 1, Block A

WHEREAS, the Declarant's property is located near McConnell Air Force Base and is accordingly subject to considerable noise from the operation of aircraft which may infringe upon the enjoyment of said property and may affect the health and/or well being of the property's users, and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in connection with approval of the plat of said addition, has required that proper consideration be given to abate outside noise pollution within buildings constructed on said property.

NOW, THEREFORE, Declarant hereby declares that Sedgwick County Fire Station No. 36 Addition, Sedgwick County, Kansas, shall be and the same is subjected to the following restrictive covenant, to wit:

> That any structure constructed on the premises shall be so designed and constructed as to minimize outside noise pollution in compliance with applicable City of Wichita and/or Sedgwick County codes and with due consideration given to the intended use of the structure. This covenant is for the benefit of said property and shall run with the land and shall inure to the benefit of and pass with said property and shall be binding upon the successors and assigns, jointly and severally, by these presents.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita and/or County of Sedgwick. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

Executed the date and year first above written.

Sedgwick County Fire District Number One

By: Tim R. Norton

Tim R. Norton, Second District
Chairman

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 25th day of September, 2012, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Tim R. Norton, Second District, Chairman of the Sedgwick County Fire District Number One, a Kansas political subdivision, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said political subdivision.

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

Carol S. Cole
Notary Public

(My Commission Expires: 7-23-15)

CAROL S. COLE
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 7-23-15

Approved as to form:

Gary E. Rebenstorf, Director of Law

Approved As To Form