Table of Contents

Agenda 9

City Council Policy 13 for Naming of Public Facilities including Honorary Over-Naming of City Streets.

Agenda Report No. II-1 23

Revised Policy 13 Clean 25

Revised Policy 13 Delineated 28

Kansas Aviation Museum Community Development Block Grant (CDBG) Loan. (District III)

Agenda Report II-2 31

Public Hearings on the Establishment of a Community Improvement District and a Tax Increment Financing Redevelopment District for the Planeview Grocery Store Project, George Washington Boulevard and Pawnee Avenue. (District III)

Agenda Report No. III-1 33

CID Ordinance No. 48-821 36

TIF Ordinance No. 48-837 42

Public Hearing on the Establishment of a Community Improvement District for Maize 54 Development. (District V)

Agenda Report No. III-3 48

Ordinance No. 48-823 51

Development Agreement 58

Petition to approve a Community Improvement District for Broadview Hotel Redevelopment. (District VI)

Agenda Report No. III-4 83

Petition 85

Resolution No. 10-233 104

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

Agenda Report No. III-5 110

Writeups 112

Wichita WaterWalk Art Project. (District I)

Agenda Report No. III-6 124

Contract 125

WaterWalk Mater Plan, Site Areas No. 2 and No. 3. (District I)

Agenda Report No. III-7 132

Map - Site Areas 2-3 135

Map - Opportunities 136

(Pulled per Manager) WaterWalk Architecture/Engineering Services, Site Areas No. 2 and No. 3. (District I)

Agenda Report No. III-8 137

Chris Cherches Memorial. (District VI)

Agenda Report No. III-9 142

Cherches Memorial site plan 143

Agreement and MOU regarding license to sell Cereal Malt Beverage at Wichita Wagonmasters Chili Cookoff Community Event. (District I)
Agenda Report No. III-10 144
Agreement and Memorandum of Understanding 145
Rename Edgemoor Skate park the Ryan Woodward Memorial Skate Park. (Districts I and II)
Agenda Report No. III-11 147
Naming of Arson Canine Ashley's Memorial Dog Park. (District III)
Agenda Report No. III-12 148
Ashley's picture for City Council naming of Dog Park. 150
Meridian Dog Park. (District VI)
Agenda Report No. III-13 151
Resolution No. 10-234 152
Kingsbury Tract, future park site development. (District VI)
Agenda Report No. III-14 153
Resolution No. 10-235 154
Irrigation Systems Replacement and Upgrade. (Districts I, III, IV, and VI)
Agenda Report No. III-15 155
Resolution No. 10-236 156
2010 Park Facilities Renovation. (Districts I, II, V, and VI)
Agenda Report No. III-16 157
Resolution No. 10-237 158
Fit for Kansas Kids Grant. (Districts III, V, and VI)
Agenda Report No. III-17 159
Ordinance Amendments to Chapter 9.08 regarding maintenance of trees on public property.
Agenda No. III-18 160
Ordinance No. 48-824. 161
Delineated Ordinance. 175
Amendments to Speed Limit Ordinance, Section 11.96.010.
Agenda Report No. III-19 and Ordinance No. 48-825. 191
An Ordinance Amending Section 5.88 of the Code of the City of Wichita, Kansas pertaining to Unlawful Use of Weapons.
Agenda Report No. III-20 206
Ordinance No. 48-826. 207
Delineated Ordinance. 216
Amendments to Section 1.04.070 of the Code of The City Of Wichita, Kansas pertaining to costs and witness fees in cases before the Municipal Court.
Agenda Report No. III-21 225
Ordinance No. 48-820. 226
Ordinance Delineated. 231
Declaration of Emergency August 2010. 236

Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park. (District III)

Agenda Report No. III-22, CIP, and Resolution No. 10-238 . . . 237

Map, Agreement . . . 240

47th Street South Improvement, between Meridian and Seneca. (District IV)

Agenda Report No. III-23 and Ordinance 48-827 . . . 252

Map, CIP sheet . . . 257

CUP2010-00011 and ZON2010-00018 – Creation of DP-322 Pawnee and 127th Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”); generally located at the southwest corner of Pawnee Avenue and 127th Street East. (District II)

Agenda Report No. IV-1 . . . 259

Ordinance No. 48-828 . . . 263

Background Information . . . 265

ZON2010-00022 – City zone change from TF-3 Two-family Residential (“TF-3”) to Limited Commercial (“LC”) subject to Protective Overlay #244; generally located southwest of the intersection of Orme and Hillside. (District I)

Agenda Report No. IV-2 . . . 283

Ordinance No. 48-829 . . . 287

Background Information . . . 290

ZON2010-00026 – City zone change from SF-5 Single-Family Residential (“SF-5”) to TF-3 Two-Family Residential (“TF-3”); generally located north and east of the intersection of North Hoover Road and West Robinson Street. (District VI)

Agenda Report No. IV-3 . . . 314

Ordinance No. 48-830 . . . 316

Background Information . . . 317

CON2010-00017 – City Conditional Use to permit the construction of a Communication Tower for Unified School District (“USD”) 259 at Dodge Elementary School; generally located at the southwest corner of the intersection of West 2nd Avenue and Anna Street. (District IV)

Agenda Report No. IV-4 . . . 325

Resolution No. 10-239 . . . 329

Background Information . . . 331

*ZON2010-00024 – City zone change from SF-5 Single-family Residential (“SF-5”) to TF-3 Two-family Residential (“TF-3”) on property located north and south of Casa Bella Street; generally located north of Pawnee and west of 127th Street East. (District II)

Agenda Report No. V-1 . . . 340

Ordinance No. 48-832 . . . 342

Background Information . . . 343

*DER2010-08-Derby-Mulvane Joint Area Plan, 2010-2030, (Within Unincorporated Sedgwick County).

Agenda Report No. V-2 . . . 346

Ordinance No. 48-831 349
Derby Mulvane Joint Area Plan 351
*SUB2005-00036 -- Plat of Albert Farm Addition, located on the southeast corner of Central and 151st Street West.
Agenda Report No. V-3 399
Resolution Nos. 10-240 and 10-241 401
Supporting Documents 405
*SUB2010-00036 -- Plat of Easy Credit Auto 2nd Addition located north of 31st Street South and on the west side of Broadway. (District III)
Agenda Report No. V-4 419
*DED2010-00007 -- Drainage Easement Dedication located on the west side of Seneca and south of 45th Street North. (District VI)
Agenda Report No. V-5 420
Supporting Documents 421
*VAC2010-00014 - Request to vacate a portion of a platted easement; generally located east of I-135 and south of 29th Street North. (District I)
Agenda Report No. V-6 423
*VAC2010-00017 - Request to vacate a portion of street right-of -way; generally located along the 29th Street North and Grove Street intersection. (District I)
Agenda Report No. V-7 425
*VAC2010-00018 - Request to vacate multiple easements and street right-of-way; generally located between 18th and 19th Streets between Poplar and Volutsia Avenues. (District I)
Agenda Report No. V-8 427
*VAC2010-00019 - Request to vacate the plattor's text to amend the uses allowed in a platted reserve; generally located on the south side of 21st Street North, east of 135th Street West. (District V)
Agenda Report No. V-9 429
*DTG Operations d/b/a Thrifty - Assignment of Agreement - DTG Operations d/b/a Dollar - Assignment of Agreement Wichita Mid-Continent Airport.
Agenda Report No. IX-1 431
Dollar Assignment to Thrifty - Supporting Doc 1 432
Thrifty Assignment to Enterprise - Supporting Doc 2 436
Thrifty Exhibit A 441
Dollar Exhibit A 467
*Federal Aviation Administration - Lease No. DTFASW-10-L-00268, Supplemental Agreement No. 1 - 2204 South Tyler Road - Wichita Mid-Continent Airport.
Agenda Report No. IX-2 492
Agreement 493
Preliminary Estimates. (See Attached)
List of Preliminary Estimates 505

Petitions to construct Sanitary Sewer and Water Improvements in part of USD 259 Addition, north of I-235 North, west of Seneca. (District VI)

Agenda Report No. XII-5a and Resolutions No. 10-242 and 10-243 . . . 506

Map, CIP and Petition . . . 511

Community Events: 2010 Wichita Wagonmasters Chili Cookoff. (District I)

Agenda Report No. XII-6a . . . 522

Community Events: Intrust Bank Arena, WWE Smackdown. (District I)

Agenda Report No. XII-6b . . . 523

Community Events: Intrust Bank Arena, Carrie Underwood. (District I)

Agenda Report No. XII-6c . . . 524

(Pulled per John DAngelo) Constitution Day Reading of the Constitution. (District VI)

Agenda Report No. XII-6d . . . 525

ASR-Liquid Oxygen Storage Tanks Contract.

Agenda Report No. XII-7a . . . 526

Contract . . . 527

Supplemental Agreement for services for the WRAPS Study.

Agenda Report No. XII-7b and Supplemental Agreement . . . 534

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

Agenda Report No. XII-7c . . . 538

Interlocal Agreement . . . 539

Agreement for Design Services for Storm Water Sewer and Paving Improvements in North Elementary School Addition, north of 29th Street North, east of Seneca. (District VI)

Agenda Report No. XII-8e and Agreement . . . 542

Supplemental Agreement for Heartland Preparedness Center Design Services. (District I)

Agenda Report No. XII-7d and Agreement . . . 550

Agreement for Design Services for 20" Force Main along 135th Street West. (District V)

Agenda Report No. XII-8c and Agreement . . . 554

Memo . . . 562

Agreement for Design Services for Paving Improvements in Goddard School Addition, south of Maple, east of 167th Street West. (District V)

Agenda Report No. XII-8d and Agreement . . . 563

Golf Course Pro Shop Sales Service Contract. (District IV)

Agenda Report No. XII-7e . . . 577

Golf Course Pro Shop Contract . . . 578

East Kellogg, Cypress to 127th Street East (Project I)-Design Supplemental Agreement No. 1. (District II)

Agenda Report No. XII-8a, Supplemental Agreement, Exhibits and Ordinance No.48-835 586

Agreement for Design Services for St. Francis and Commerce, between Waterman and Kellogg. (District I)

Agenda Report No. XII-8b, CIP, and Ordinance No. 48-836 600

Dry Creek Channel Improvement, between Lincoln and Orme. (District III)

Agenda Report No. XII-9a and Change Order 608

Acquisition of 3501 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda Report No. XII-10a 611

Real Estate Purchase Agreement, Tract Map and Aerial Map 612

Acquisition of 3532 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda Report No. XII-10b 616

Real Estate Purchase Agreement, Tract Map and Aerial Map 617

Acquisition of 2607 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda No. XII-10c 621

Real Estate Purchase Agreement, Tract Map and Aerial Map 622

Acquisition of 1345 North Fairmount and 3317 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda Report No. XII-10d 626

Contract for Conveyance and Tract Map 627

Partial Acquisition of 3517 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda Report No. XII-10e 631

Real Estate Purchase Agreement, Tract Map and Aerial Map 632

Acquisition of 1355 North Erie for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

Agenda Report No. XII-10f 636

Real Estate Purchase Agreement, Tract Map and Aerial Map 637

Partial Acquisition for Right-of-Way at 2102 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)

Agenda Report No. XII-10g 641

Real Estate Purchase Ageement, Tract Map and Aerial Map 642

Partial Acquisition of 12112 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project. (District V)

Agenda Report No. XII-10h 646

Supporting Documents 647

Partial Acquisition for Right-of-Way at 2138 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)

Agenda Report No. XII-10i 653

Map 654

Real Estate Purchase Ageement, Tract Map and Aerial Map 655

Acquisition of a Temporary Easement at 11910 West Pawnee for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)

Agenda Report No. XII-10j 659

Real Estate Agreement, Tract Map and Aerial Map. 660

Senior Management Report, June 2010

Agenda Report XII-12. 664

Senior Management Report, July 2010

Agenda Report XII-13. 665

Settlement of Claim.

Settlement of Claims XII-14. 666

Sunflower Trails Grant for Harvest Park. (District V)

Agenda Report XII-16. 667

Woodlawn Improvement, between Harry and Lincoln. (Districts II and III)

Agenda Report No. XII-17 and Ordinance No. 48-833 668

Map 671

Complete phase II design and rehabilitation of the screw pump station modification at the Lower Arkansas River Water Quality Reclamation Facility.

Agenda Report No. XII-18 and Resolution No. 10-244 672

Redbud Multi-Use Path. (District I)

Agenda Report No. XII-19 and Resolution No. 10-245 676

Community Event to be held at Naftzger Park with Cereal Malt Beverage consumption - Resolution, 2010 Wichita Wagonmasters Chili Cookoff. (District I)

Agenda Report No. XII-20. 678

Resolution No. 10-246 679

Event Application 681

Agreement for Operating Funds for Section 5316 Public Transportation Projects. (Districts I through V)

Agenda Report No. XII-21. 702

Agreement for Operating Funds for Section 5316 Public Transp. Projects. 703

Acquisition of Temporary and Drainage Easements at 11432 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project. (District V)

Agenda Report No. XII-10k 704

Permanent Drainage Easement, Tract Map and Temporary Construction Easement. 705

Resthaven Map 713

Contract for Indigent Defense Services.
Agenda Report No. XII-22 714
Contract with Cotton & Pittman 715
RFP-FP030047 719
RFP- Addendum#1 731
Access Easement and Drainage Dedication for Steven's Lake, north of 21st Street North, east of Ridge Road.
Agenda Report No. XII-23 732
Access Drainage 733
(Pulled per Manager) Transfer of CIP Funds.
Agenda Report No. XII-24 and Resolution Nos. 10-247 through 10-250 744
Notices of Intent for Resolutions 749
Underwriting of Exploration Place's "WaterWorks" Exhibition.
Agenda Report No. XII-25 754
(List of Second Reading Ordinances)
Second Reading Ordinances 755

REVISION- PULLED ITEMS:
III-2 & 8
XII-6D & 24

FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. September 14, 2010

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the regular meeting on August 24, 2010

AWARDS AND PROCLAMATIONS

-- Proclamations:

Hispanic Heritage Month
National Ballroom Dance Week
Breast Cancer Awareness Day
Water Conservation Day
Wichita's Play Day

-- Awards:

Wichita Census Certificate Award
National Purchasing Institute's 15th Annual Achievement of Excellence in Procurement Award of 2010

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. Craig Gabel - City Council support for use as alternate site for the public safety facility.

2. Jason McKinley - Homelessness in Wichita.

3. Richard L. Phillips - Homelessness issues and possible solutions.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

1. City Council Policy 13 for Naming of Public Facilities including Honorary Over-Naming of City Streets. (Deferred July 20, 2010)

   RECOMMENDED ACTION: Approve the revised City Council Policy 13.

2. Kansas Aviation Museum Community Development Block Grant (CDBG) Loan. (District III)

   RECOMMENDED ACTION: Approve the conversion of the CDBG loan to a grant and approve the cancelation and discharge of the promissory note without payment.

III. NEW COUNCIL BUSINESS

1. Public Hearings on the Establishment of a Community Improvement District and a Tax Increment Financing Redevelopment District for the Planeview Grocery Store Project, George Washington Boulevard and Pawnee Avenue. (District III)

   RECOMMENDED ACTION: Close the public hearing and place on first reading the Ordinances establishing a community improvement district for the Planeview Grocery Store CID and establishing a redevelopment district for the Planeview Redevelopment District.

2. Public Hearing on the Establishment of a Community Improvement District at Central Park Place. (District V)

   (PULLED PER VICE-MAYOR)

3. Public Hearing on the Establishment of a Community Improvement District for Maize 54 Development. (District V)

   RECOMMENDED ACTION: Close the public hearing, place on first reading the Ordinance establishing a community improvement district for the Maize 54 CID, and approve the Development Agreement.

4. Petition to approve a Community Improvement District for Broadview Hotel Redevelopment. (District VI)

   RECOMMENDED ACTION: Accept the petition and adopt the resolution setting a public hearing on October 5, 2010 for consideration of the establishment of a Community Improvement District.

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

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

Property Address	Council District
a. 1328 North Lorraine	I
b. 1220 North Piatt	I
c. 1036 North Poplar	I
d. 1508 North Grove (detached garage in rear)	I
e. 1528 North Erie	I

RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of September 14, 2010; (2) the structure has been secured as of September 14, 2010, and will continue to be kept secured; and (3) the premises are mowed and free of debris as of September 14, 2010, as will be so maintained during renovation.

6. Wichita WaterWalk Art Project. (District I)

RECOMMENDED ACTION: Approve Albert Paley as the artist selection for the Wichita WaterWalk Art Project and approve a budget of $350,000 for the artist design and fabrication fees.

7. WaterWalk Master Plan, Site Areas 2 and 3. (District I)

RECOMMENDED ACTION: Approve the revised Master Plan for Site Area 2 and the Schematic Master Plan for Site Area 3, authorize the inclusion of design criteria recommended by Design Council into the design process.

8. WaterWalk Architecture/Engineering Services, Site Areas 2 and 3. (District I)

(PULLED PER MANAGER)

9. Chris Cherches Memorial. (District VI)

RECOMMENDED ACTION: Approve the site location for the proposed Chris Cherches Memorial located at 334 North Mead.

10. Agreement and MOU regarding license to sell Cereal Malt Beverage at Wichita Wagonmasters Chili Cookoff Community Event. (District I)

    RECOMMENDED ACTION: Approve the Agreement and MOU between the City and Mr. Hansen for the surrender of the annual CMB license at the conclusion of the Wichita Wagonmasters Chili Cookoff event

11. Rename Edgemoor Skate park the Ryan Woodward Memorial Skate Park. (Districts I and II)

    RECOMMENDED ACTION: Approve renaming the skate area within Edgemoor Park, the Ryan Woodward Memorial Skate Park.

12. Naming of Arson Canine Ashley's Memorial Dog Park. (District III)

    RECOMMENDED ACTION: Approve naming Wichita's first dog park, Arson Canine Ashley's Memorial Dog Park.

13. Meridian Dog Park. (District VI)

    RECOMMENDED ACTION: Approve the bonding resolution, authorize initiation of the project, and authorize all necessary signatures.

14. Kingsbury Tract, future park site development. (District VI)

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

15. Irrigation Systems Replacement and Upgrade. (Districts I, III, IV, and VI)

    RECOMMENDED ACTION: Approve the projects, adopt the bonding resolution and authorize all necessary signatures.

16. 2010 Park Facilities Renovation. (Districts I, II, V, and VI)

    RECOMMENDED ACTION: Approve the bonding resolution, authorize initiation of the project and authorize all necessary signatures.

17. Fit for Kansas Kids Grant. (Districts III, V, and VI)

    RECOMMENDED ACTION: Approve the grant application process.

18. Ordinance Amendments to Chapter 9.08 regarding maintenance of trees on public property.

    RECOMMENDED ACTION: Place the ordinance on first reading and authorize the necessary signatures.

19. Amendments to Speed Limit Ordinance, Section 11.96.010.

    RECOMMENDED ACTION: Place the ordinance on first reading and authorize the necessary signatures.

20. An Ordinance Amending Section 5.88 of the Code of the City of Wichita, Kansas pertaining to Unlawful Use of Weapons.

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

21. Amendments to Section 1.04.070 of the Code of the City Of Wichita, Kansas pertaining to costs and witness fees in cases before the Municipal Court.

    RECOMMENDED ACTION: Declare a public emergency and adopt the ordinance making the recommended amendments to City Code section 1.04.070.

22. Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park. (District III)

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

23. 47th Street South Improvement, between Meridian and Seneca. (District IV)

    RECOMMENDED ACTION: Approve the project, approve the Westar agreement, place the amending ordinance on first reading and authorize the signing of state/federal agreements as required.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

IV. NON-CONSENT PLANNING AGENDA

1. CUP2010-00011 and ZON2010-00018 – Creation of DP-322 Pawnee and 127th Community Unit Plan and zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC"); generally located at the southwest corner of Pawnee Avenue and 127th Street East. (District II)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the community unit plan and the zone change to LC Limited Commercial ("LC"); withhold the publication of the ordinance until the plat is recorded (simple majority vote required); or 2) Deny the application (two-thirds majority vote required); or 3) Return the application to the MAPC for reconsideration (simple majority vote required).

2. ZON2010-00022 – City zone change from TF-3 Two-family Residential ("TF-3") to Limited Commercial ("LC") subject to Protective Overlay #244; generally located southwest of the intersection of Orme and Hillside. (District I)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to Protective Overlay #244 and place the ordinance on first reading (requires a three-fourths majority vote); or 2)Deny the request (requires a two-thirds vote) or 3) Return the request to the MAPC for further consideration (requires a simple majority vote).

3. ZON2010-00026 – City zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3"); generally located north and east of the intersection of North Hoover Road and West Robinson Street. (District VI)

   RECOMMENDED ACTION: 1) Adopt the findings of the MAPC, approve the zone change subject to the submission of a no protest petition for paving, and withhold publication of the ordinance until the no protest petition has been submitted (requires a three-fourths majority vote); or 2) Return the application to the MAPC for reconsideration.
   (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

4. CON2010-00017 – City Conditional Use to permit the construction of a Communication Tower for Unified School District ("USD") 259 at Dodge Elementary School; generally located at the southwest corner of the intersection of West 2nd Avenue and Anna Street. (District IV)

   RECOMMENDED ACTION: 1) Concur with the findings of the MAPC and approve the request for a Conditional Use subject to the recommended conditions of approval, including amended Condition C that requires a monopole (simple majority vote required); and authorize the Mayor to sign the resolution; or 2) Approve the application as requested by the applicant, subject to the recommended conditions. (Two-thirds majority vote required); or 3) Return the application to the MAPC for reconsideration.

V. CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 9)

1. *ZON2010-00024 – City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on property located north and south of Casa Bella Street; generally located north of Pawnee and west of 127th Street East. (District II)

   RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the zone change, and withhold publication of the ordinance subject to replatting within one year.

2. *DER2010-08-Derby-Mulvane Joint Area Plan, 2010-2030, (Within Unincorporated Sedgwick County).

   RECOMMENDED ACTION: Adopt the Derby-Mulvane Joint Area Plan, 2010-2030, as an amendment to the Wichita-Sedgwick County Comprehensive Plan, place the ordinance on first reading and authorize the necessary signatures.

3. *SUB2005-00036 -- Plat of Albert Farm Addition, located on the southeast corner of Central and 151st Street West. (County)

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

4. *SUB2010-0036 -- Plat of Easy Credit Auto 2nd Addition located north of 31st Street South and on the west side of Broadway. (District III)

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

5. *DED2010-00007 -- Drainage Easement Dedication located on the west side of Seneca and south of 45th Street North. (District VI)

   RECOMMENDED ACTION: Accept the Dedication.

6. *VAC2010-00014 - Request to vacate a portion of a platted easement; generally located east of I-135 and south of 29th Street North. (District I)

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

7. *VAC2010-00017 - Request to vacate a portion of street right-of-way; generally located along the 29th Street North and Grove Street intersection. (District I)

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

8. *VAC2010-00018 - Request to vacate multiple easements and street right-of-way; generally located between 18th and 19th Streets between Poplar and Volutsia Avenues. (District I)

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

9. *VAC2010-00019 - Request to vacate the plattor's text to amend the uses allowed in a platted reserve; generally located on the south side of 21st Street North, east of 135th Street West. (District V)

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

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA (ITEMS 1 AND 2)

1. *DTG Operations d/b/a Thrifty - Assignment of Agreement - DTG Operations d/b/a Dollar - Assignment of Agreement Wichita Mid-Continent Airport.

   RECOMMENDED ACTION: Approve the Assignment of Agreements and authorize the necessary signatures.

2. *Federal Aviation Administration - Lease No. DTFASW-10-L-00268, Supplemental Agreement No. 1 - 2204 South Tyler Road - Wichita Mid-Continent Airport.

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

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. Approval of travel expenses for Mayor Carl Brewer, Vice Mayor Jeff Longwell, Council Member Paul Gray, Council Member Sue Schlapp and Council Member Lavonta Williams to attend the LKM Annual Conference in Overland Park, Kansas, October 9-12, 2010.

   RECOMMENDED ACTION: Approve the travel expenditures.

2. Approval of travel for Mayor Brewer to attend the Husum Wind Energy 2010 Trade Show in Husum, Germany, September 19-26, 2010, for official City business purposes, as a member of the Kansas delegation to encourage companies to do business with Wichita and Kansas.

   RECOMMENDED ACTION: Approve the travel.

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 26)

1. Report of Board of Bids and Contracts dated September 13, 2010.

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

2. Applications for Licenses:

Renewal

Valerie Washington	Xcitement Video	3909 West Pawnee

RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2010	(Consumption on Premises)
Armando DeSantiago	El Perron*	3824 East Harry
Jeff Clark	Riverside Tennis Center*	551 Nims

Renewal	2010	(Consumption off Premises)
Bao Q Tran	Bih Fast Trips	2796 South Seneca
Bao Q Tran	Bih Fast Trips #4	1203 East Pawnee
James Smith	Farmers Market Inc	2901 North Broadway

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

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

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

RECOMMENDED ACTION: Receive and file.

5. Petitions for Public Improvements:
    a. Petitions to construct Sanitary Sewer and Water Improvements in part of USD 259 Addition, north of I-235 North, west of Seneca. (District VI)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

6. Consideration of Street Closures/Uses.
    a. Community Events: 2010 Wichita Wagonmasters Chili Cookoff. (District I)
    b. Community Events: Intrust Bank Arena, WWE Smackdown. (District I)
    c. Community Events: Intrust Bank Arena, Carrie Underwood. (District I)
    d. (PULLED PER JOHN D'ANGELO) Constitution Day

RECOMMENDED ACTION: Approve street closure.

7. Agreements/Contracts:
    a. ASR-Liquid Oxygen Storage Tanks Contract.
    b. Supplemental Agreement for services for the WRAPS Study.
    c. Internet Crimes Against Children (ICAC) Grant and Interlocal Agreement.
    d. Supplemental Agreement for Heartland Preparedness Center Design Services. (District I)
    e. Golf Course Pro Shop Sales Service Contract. (District IV)

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

8. Design Services Agreements:
    a. East Kellogg, Cypress to 127th Street East (Project I)-Design Supplemental Agreement No. 1. (District II)
    b. Agreement for Design Services for St. Francis and Commerce, between Waterman and Kellogg. (District I)
    c. Agreement for Design Services for 20" Force Main along 135th Street West. (District V)
    d. Agreement for Design Services for Paving Improvements in Goddard School Addition, south of Maple, east of 167th Street West. (District V)
    e. Agreement for Design Services for Storm Water Sewer and Paving Improvements in North Elementary School Addition, north of 29th Street North, east of Seneca. (District VI)

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

9. Change Order:
    a. Dry Creek Channel Improvement, between Lincoln and Orme. (District III)

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

10. Property Acquisitions:
    a. Acquisition of 3501East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    b. Acquisition of 3532 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    c. Acquisition of 2607 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    d. Acquisition of 1345 North Fairmount and 3317 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    e. Partial Acquisition of 3517 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    f. Acquisition of 1355 North Erie for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
    g. Partial Acquisition for Right-of-Way at 2102 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)
    h. Partial Acquisition of 12112 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project. (District V)
    i. Partial Acquisition for Right-of-Way at 2138 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)
    j. Acquisition of a Temporary Easement at 11910 West Pawnee for the 119th Street, Pawnee Avenue to Kellogg Improvement Project. (District IV)
    k. Acquisition of Temporary and Drainage Easements at 11432 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project. (District V)

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

11. Minutes of Advisory Boards/Commissions

    Board of Park Commissioners, July 19, 2010
    Board of Park Commissioners, August 16, 2010
    Board of Electrical Appeals, May 11, 2010
    Board of Appeals of Plumbers and Gas Fitters, June 2, 2010
    Employees' Retirement System, July 21, 2010
    Board of Appeals of Refrigeration, Air-Conditioning, Warm Air Heating and Boiler, July 22, 2010

    RECOMMENDED ACTION: Receive and file.

12. Senior Management Report, June 2010

    RECOMMENDED ACTION: Receive and file.

13. Senior Management Report, July 2010

    RECOMMENDED ACTION: Receive and file.

14. Settlement of Claim.

RECOMMENDED ACTION: Authorize payment of $20,000 as a full settlement of all possible claims which were made or could have been made in the claim.

15. Proposed Assessment Rolls.

Proposed Assessment Rolls have been prepared for, eight (8) paving projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 4, 2010 at 11:00a.m. Notification of both the informal and formal public hearings regarding the proposed special assessments will be mailed to affected property owners on September 17, 2010.

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

16. Sunflower Trails Grant for Harvest Park. (District V)

RECOMMENDED ACTION: Accept the grant funds, authorize the project and authorize all necessary signatures.

17. Woodlawn Improvement, between Harry and Lincoln. (Districts II and III)

RECOMMENDED ACTION: Approve the project, place the ordinance on first reading, authorize the necessary budget adjustment and authorize the signing of State/Federal agreements as required.

18. Complete phase II design and rehabilitation of the screw pump station modification at the Lower Arkansas River Water Quality Reclamation Facility.

RECOMMENDED ACTION: Approve the project expenditure for 2010, transfer $500,000 within the current approved CIP from the Four Mile Creek project (S-530) to the Screw Pump project (S-017), in order to complete phase two of the Screw Pump Project, authorize staff to pursue phase two of the screw pump rehabilitation using design/build methodology, adopt the amended resolution; and authorize the necessary signatures.

19. Redbud Multi-Use Path. (District I)

RECOMMENDED ACTION: Adopt the resolution and authorize the signing of state/federal agreements as required.

20. Community Event to be held at Naftzger Park with Cereal Malt Beverage Consumption-Resolution, 2010 Wichita Wagonmasters Chili Cookoff. (District I)

RECOMMENDED ACTION: Adopt the Resolution.

21. Agreement for Operating Funds for Section 5316 Public Transportation Projects. (Districts I through V)

    RECOMMENDED ACTION: Approve the agreement for Operating Funds for Section 5316 Public Transportation Projects between the Kansas Department of Transportation (KDOT) and Wichita Transit and authorize the necessary signatures.

22. Contract for Indigent Defense Services.

    RECOMMENDED ACTION: Approve the vendor Cotton and Pittman Law Office as the indigent defense services provider and authorize the necessary signatures.

23. Access Easement and Drainage Dedication for Steven's Lake, north of 21st Street North, east of Ridge Road. (District V)

    RECOMMENDED ACTION: Approve the easement and dedication and authorize the Mayor to sign.

24. Transfer of CIP Funds.

    (PULLED PER CITY MANAGER)

25. Underwriting of Exploration Place's "WaterWorks" Exhibition.

    RECOMMENDED ACTION: Approve financial sponsorship and authorize the necessary signatures.

26. Second Reading Ordinances: (First Read August 24, 2010)
    a. (List of Second Reading Ordinances)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: City Council Policy 13 for Naming of Public Facilities including Honorary Over-Naming of City Streets. (All Districts)

INITIATED BY: Department of Public Works
And Department of Park and Recreation

AGENDA: Unfinished Business

Recommendation: Approve proposed revisions to City Council Policy 13 (Advisory Committee for Naming of Public Facilities).

Background: On July 20, 2010, the City Council approved a request from members of Calvary Baptist Church and the W.G. Williams Community Foundation, Inc. to over-name the 2600 and 2700 blocks of North Lorraine Avenue in honor of Dr. W.G. Williams, pastor of Calvary Baptist church. The City Council also directed on July 20, 2010, that proposed revisions to City Council Policy 13 allowing for street over-naming should be expanded to define the process for naming of Park facilities.

City Council Policy 13 addresses the naming of City facilities and properties. A proposed revised Policy 13 is attached.

Analysis: The proposed revisions add honorary over-naming of street segments to this policy. Over-naming a street would not entail postal, mapping or other official renaming designations and the approval of abutting property owners or residents is not required. Over-naming would consist of the addition of an extra street name sign 'blade' to existing street name sign posts. The blades and installation would be required to meet City specifications.

The proposed revised policy designates the Board of Park Commissioners as the naming advisory committee for parks and open space lands. The revised policy also allows for City facilities to be named in honor of children or young adults who contributed significantly to the funding, construction or maintenance of a facility.

All naming recommendations are to be submitted to the City Council for final review and determination. Exceptions to Policy 13 must be approved by the Mayor and City Council.

Financial Considerations: Production, installation and maintenance of street over-naming signs would be at the sponsoring individual's or group's expense. The process of convening a naming advisory committee/s for other City facilities would have a minimal cost.

Goal Impact: Naming City facilities in honor of deserving citizens addresses the Core Area and Neighborhood goal by increasing the sense of neighborhood and community involvement for groups and individuals who identify with the honorees.

Legal Considerations: The proposed policy has been reviewed as to legal form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the revised City Council Policy 13.

Attachments: Revised City Council Policy 13 delineated
Revised City Council Policy 13 clean

CITY OF WICHITA
CITY COUNCIL POLICY #13

Advisory Committee on Naming of Public Facilities/Land

March 4, 2003
Revised July 30, 2010

Subject: Advisory Committee/Naming of Public Facilities
Including Honorary Over-Naming of City Streets

It is the policy of the City of Wichita to name public facilities in accordance with their intended use and, where appropriate, to recognize distinguished citizens by naming public facilities/lands and property in their memory. The City may also "over-name" segments of residential streets to accomplish the same objective.

To assist in naming and over-naming public facilities, a Naming Advisory Committee shall meet "as needed". Each City Council Member will nominate one (1) person to serve on the Committee. Appointees shall be residents of the City and at least 18 years of age. The appointees may be members of another City Board/Commission. For all Park facilities, the Park Board shall serve as the official Naming Committee.

The Committee shall be charged with receiving or developing nominations and formulating recommendations to the City Council. The Committee will disband upon assignment completion. However, for designated parks and property owned as park and open space lands, the Board of Park Commissioners shall serve in the capacity of the Naming Committee and follow the same guidelines and provisions of this policy, including submitting recommendations to the City Council for final review and determination.

1. All proposals for naming a facility, a park/open space, streets or other properties shall be referred in writing to the City Council, City Manager's Office, and/or the City Clerk's Office. All proposals shall describe the facility or property to be named, shall state the name being proposed and shall include reasons, qualifications and documentation in support of the person having a facility/property named after him/her or after an agency, business or organization.

2. Approval must be obtained from the proper authorities if naming federal or state property or facility.

3. The name used must not be duplicated and/or be confused with the names of existing facilities.

4. If the recommendation is a person's name, it may include only the name of a person or persons who is deceased.

5. The person being distinguished must be one who has made a significant contribution to the City and such person must have been primarily responsible for the existence or well-being of the facility.

6. A child or young adult may be distinguished if his/her contribution to the development of the facility was substantial and the person is now deceased. Substantial contributions would include fund raising for over 50% of the facility's cost, supplying more than 50% of the labor for the facility's construction or providing at least one year of maintenance for the facility.

7. The selection of a name, if not a person's name, must be based on the function of the facility and the image the name would project.

8. The naming of City-owned facilities shall not be limited to new facilities. Existing facilities may be renamed.

9. Segments of a City street may be 'over-named' by City Council action, after referral to the Mayor's Advisory Committee, in conformance with the conditions and requirements below:

- Over-naming will be an honorary designation; no postal, map, or other addressing designations will be involved.
- Only residential streets will be over-named. The consent of property owners or residents on the street segment to be over-named will NOT be required.
- The street segment to be over-named should relate to the person being honored in some meaningful way.
- Only one over-naming will be allowed on any given segment of City street.
- Over-naming will consist of the addition of street name signs ('blades') which meet City of Wichita specifications to the existing street name posts at each end of the street segment, in a manner also specified by the City of Wichita.

INSTALLATION AND MAINTENANCE RESPONSIBILITIES FOR OVER-NAMED STREETS

- The individual or group which requests the over-naming will be responsible for having the appropriate number of blades made and attached to the City's posts by a private vendor. City staff will provide the specifications and the names of qualified vendors to the group or individual which is sponsoring the over-naming.
- Installed blades that do not conform to the request as approved by the City Council will be removed by City staff.
- In the event that an over-named sign blade is damaged or vandalized, the City will notify the sponsor/s of the need for replacement.
- The sponsor will be responsible for replacement of damaged and stolen blades, using the same specifications as for the original installation. If the sponsor does not replace damaged or stolen blades within 90 days of notification, the City Engineer is authorized to rescind the over-naming designation and cause any remaining blades carrying the same designation to be removed and retained by the City.
- Over-naming will be in effect for 20 years, after which time the request must be resubmitted for Council approval. Over-naming signs in good condition will not need to be replaced at the time of Council approval.

City staff will notify the over-naming sponsor following approval by the City Council, to provide the specifications and vendor information identified above.

The City will retain responsibility for maintenance of the official City street name blades and the posts on which they are mounted, in accordance with the Manual of Uniform Traffic Control Devices (MUTCD). In the event that some future edition of the MUTCD shall prohibit or restrict the practice set out in this policy, the City will be responsible for adjusting and/or removing the over-naming signs as necessary to comply with the MUTCD.

OVER-NAMING REQUEST REQUIREMENTS

To request over-naming of a street segment, the sponsoring group or individual must submit a written request to the Mayor's Office, identifying:

- The blocks proposed for over-naming (such as, Porter from Pine to Murdock);
- The name proposed for the over-name (such as, G. Fred Williams);
- A brief statement of the person's contribution to the Quality of Life in Wichita;
- How the requested location is relevant to the person being honored;
- Some form of documentation of that person's death; and
- Contract information for the sponsoring group/individual

10. The Naming Advisory Committee shall review all proposals and forward recommendations to the City Council for final determination.

11. Any waivers to this policy must be approved by the Mayor and City Council. A waiver may not be granted if the person's significant accomplishments for the betterment of the community cannot be identified.

12. The City Council shall have the final authority for selection of an appropriate name upon recommendation of the Committee.

City of Wichita, Kansas

CITY OF WICHITA
CITY COUNCIL POLICY #13

Advisory Committee on Naming of Public Facilities/Land

March 4, 2003
Revised July 30, 2010

Subject: Advisory Committee/Naming of Public Facilities
Including Honorary Over-Naming of City Streets

It is the policy of the City of Wichita to name public facilities in accordance with their intended use and, where appropriate, to recognize distinguished citizens by naming public facilities/lands and property in their memory. The City may also "over-name" segments of residential streets to accomplish the same objective.

To assist in naming and over-naming public facilities, a Naming Advisory Committee shall meet "as needed". Each City Council Member will nominate one (1) person to serve on the Committee. Appointees shall be residents of the City and at least 18 years of age. The appointees may be members of another City Board/Commission. For all Park facilities, the Park Board shall serve as the official Naming Committee.

The Committee shall be charged with receiving or developing nominations and formulating recommendations to the City Council. The Committee will disband upon assignment completion. However, for designated parks and property owned as park and open space lands, the ~~Park and Recreation Advisory Board~~ Board of Park Commissioners shall serve in the capacity of the Naming Committee and follow the same guidelines and provisions of this policy, including submitting recommendations to the City Council for final review and determination.

1. All proposals for naming a facility, a park/open space, streets or other properties shall be referred in writing to the City Council, City Manager's Office, and/or the City Clerk's Office. All proposals shall describe the facility or property to be named, shall state the name being proposed and shall include reasons, qualifications and documentation in support of the person having a facility/property named after him/her or after an agency, business or organization.

2. Approval must be obtained from the proper authorities if naming federal or state property or facility.

3. The name used must not be duplicated and/or be confused with the names of existing facilities.

4. If the recommendation is a person's name, it may include only the name of a person or persons who is deceased.

5. The person being distinguished must be one who has made a significant contribution to the City and such person must have been primarily responsible for the existence or well-being of the facility. ~~The Committee will take into consideration whether or not the person contributed to the well-being of the facility.~~

6. A child or young adult may be distinguished if his/her contribution to the development of the facility was substantial and the person is now deceased. Substantial contributions would include

fund raising for over 50% of the facility's cost, supplying more than 50% of the labor for the facility's construction or providing at least one year of maintenance for the facility.

~~6~~ 7. The selection of a name, if not a person's name, must be based on the function of the facility and the image the name would project.

~~7~~ 8. The naming of City-owned facilities shall not be limited to new facilities. Existing facilities may be renamed.

9. Segments of a City street may be 'over-named' by City Council action, after referral to the Mayor's Advisory Committee, in conformance with the conditions and requirements below:

- Over-naming will be an honorary designation; no postal, map, or other addressing designations will be involved.
- Only residential streets will be over-named. The consent of property owners or residents on the street segment to be over-named will NOT be required.
- The street segment to be over-named should relate to the person being honored in some meaningful way.
- Only one over-naming will be allowed on any given segment of City street.
- Over-naming will consist of the addition of street name signs ('blades') which meet City of Wichita specifications to the existing street name posts at each end of the street segment, in a manner also specified by the City of Wichita.

INSTALLATION AND MAINTENANCE RESPONSIBILITIES FOR OVER-NAMED STREETS

- The individual or group which requests the over-naming will be responsible for having the appropriate number of blades made and attached to the City's posts by a private vendor. City staff will provide the specifications and the names of qualified vendors to the group or individual which is sponsoring the over-naming.
- Installed blades that do not conform to the request as approved by the City Council will be removed by City staff.
- In the event that an over-named sign blade is damaged or vandalized, the City will notify the sponsor/s of the need for replacement.
- The sponsor will be responsible for replacement of damaged and stolen blades, using the same specifications as for the original installation. If the sponsor does not replace damaged or stolen blades within 90 days of notification, the City Engineer is authorized to rescind the over-naming designation and cause any remaining blades carrying the same designation to be removed and retained by the City.
- Over-naming will be in effect for 20 years, after which time the request must be resubmitted for Council approval. Over-naming signs in good condition will not need to be replaced at the time of Council approval.

City staff will notify the over-naming sponsor following approval by the City Council, to provide the specifications and vendor information identified above.

The City will retain responsibility for maintenance of the official City street name blades and the posts on which they are mounted, in accordance with the Manual of Uniform Traffic Control Devices (MUTCD). In the event that some future edition of the MUTCD shall prohibit or restrict the practice set out in this policy, the City will be responsible for adjusting and/or removing the over-naming signs as necessary to comply with the MUTCD.

OVER-NAMING REQUEST REQUIREMENTS

To request over-naming of a street segment, the sponsoring group or individual must submit a written request to the Mayor's Office, identifying:

- The blocks proposed for over-naming (such as, Porter from Pine to Murdock);
- The name proposed for the over-name (such as, G. Fred Williams);
- A brief statement of the person's contribution to the Quality of Life in Wichita;
- How the requested location is relevant to the person being honored;
- Some form of documentation of that person's death; and
- Contract information for the sponsoring group/individual

~~8~~ 10. The Naming Advisory Committee shall review all proposals and forward recommendations to the City Council for final determination.

11. Any waivers to this policy must be approved by the Mayor and City Council. A waiver may not be granted if the person's significant accomplishments for the betterment of the community cannot be identified.

12. The City Council shall have the final authority for selection of an appropriate name upon recommendation of the Committee.

City of Wichita, Kansas

Agenda Item No. II-2

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Kansas Aviation Museum Community Development Block Grant (CDBG) Loan (District III)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Unfinished business

- -

Recommendation: Approve the conversion of the CDBG loan to a grant and approve the cancelation and discharge of the promissory note without payment.

Background: On May 06, 2003 the City Council approved the allocation of Community Development Block Grant funds for the Kansas Aviation Museum project in the amount of $150,000. The funds were made available for renovation work to be performed at the City-owned historic terminal building located at 3350 George Washington Blvd.

On October 8, 2003 the Kansas Aviation Museum, Inc., signed a promissory note in the amount of $150,000 for a three (3) year term. The first two (2) years were deferred and payment was scheduled as a balloon payment in October 2006. The CDBG funding provided the necessary match for two (2) other federal grants for a total project budget of $900,000. The renovation project was completed on October 15, 2005. On October 17, 2006 after discussion, the City Council chose to defer the loan payment for another three (3) year term making the note due in October 2009.

Analysis: The note is currently past due and Kansas Aviation Museum, Inc., is requesting the City convert the loan to a grant, approve the cancelation and discharge of the promissory note without payment, and authorize the necessary signatures.

The Kansas Aviation Museum, Inc., has served as a resource and destination for citizens and visitors with its collection and archives of Wichita's aviation heritage. The Board of Directors of the Kansas Aviation Museum have worked to raise grant and private funding to accomplish needed renovations to the historic facility including mold remediation, a new roof, renovation to the interior of the tower, and various cosmetic repairs including the ceiling and the front entrance to the facility.

Financial Consideration: Converting the CDBG loan for the Kansas Aviation Museum to a grant will not impact current funding levels.

Goal Impact: The Kansas Aviation Museum works to preserve the City of Wichita's title of being the "Air Capital of the World," serves as a vehicle to entice visitors to explore our aviation heritage and enhances the Quality of Life for all citizens.

Legal Considerations: The CDBG loan to the Kansas Aviation Museum is evidenced by a Promissory Note. The City Council must approve the cancelation of the Promissory Note. Legal has signed off on the Promissory Note.

Recommendation/Action: Approve the conversion of the CDBG loan to a grant and approve the cancelation and discharge of promissory note without payment.

Attachment: None

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Public Hearings on the Establishment of a Community Improvement District and a Tax Increment Financing Redevelopment District for the Planeview Grocery Store Project (George Washington Boulevard And Pawnee Avenue) (District III)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearings and place the ordinances on first reading.

Background: On August 3, 2010, the City Council adopted two separate resolutions stating its intent to consider the establishment of both a community improvement district (CID) and a tax increment financing (TIF) redevelopment district on the corner of George Washington Boulevard and Pawnee Avenue, to be called the Planeview Grocery Store CID and the Planeview Redevelopment District, in order to access both CID and TIF financing for eligible costs associated with the Planeview Grocery Store Project.

Analysis: Wichita developer Rob Snyder has requested City assistance with development of a Save-A-Lot Grocery Store in the Planeview area of Southeast Wichita. Mr. Snyder is working with a franchise operator of Save-A-Lot Grocery Stores to develop a 16,500 square foot grocery store to provide affordable access to grocery shopping to the underserved Planeview area. However, the economics of the project leaves a funding gap of approximately $950,000 on a total project cost of over $2,000,000. Mr. Snyder proposes closing this gap with a combination of CID, TIF financing and other sources. A table identifying the sources and uses of funds is provided below:

Sources		Uses	
Developer Financing	$1,052,990	Site Development	$403,800
CID	476,640	Building Construction	1,329,630
TIF (Proposed)	403,800	Land	350,000
Developer Equity	150,000		
	2,083,430		2,083,430

Community Improvement District

State law allows property owners to petition cities or counties to create CIDs in which certain special taxes are imposed and the resulting revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs, within the districts. CID projects may be funded by either special assessment taxes on the real property within the CID or by a special retail sales tax of up to two percent (2%) on all taxable retail sales within the district, or both. Under the CID Act, cities and counties may use the CID tax revenues to repay bonds, either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to reimburse the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis.

In April of 2010**,** the City Council adopted a policy which governs how the City will utilize the tool and outlines the approval process. The City's CID Policy encourages the use of pay-as-you-go financing and

allows the use of special obligation bonds, but does not permit the use of general obligation bonds. The maximum term of a CID is 22 years. The developer proposes the Planeview Grocery Store CID include a two percent (2%) sales tax and pay-as-you-go financing.

Upon adoption of the Ordinance, the City will have created the improvement district and authorized the imposition of a two percent (2%) sales tax to pay for eligible costs as identified in the development agreement. The CID sales tax will start to be collected following the delivery of a certified copy of the Ordinance to the Kansas Department of Revenue, upon instruction from the Developer.

Tax Increment Financing

In addition to CID, the developer is requesting the establishment of a Redevelopment District in order to use TIF to cover a portion of the funding gap. The proposed district qualifies as a "blighted area" under the state TIF statutes, because a majority of the qualifying factors needed to constitute a "blighted area" are present, including an inadequate street layout, unsanitary or unsafe conditions, conditions that endanger life or property, deteriorating site improvements, obsolete land uses and conditions of economic obsolescence.

TIF allows the increased property tax revenue which results from the redevelopment of under-utilized property to be reinvested in the redevelopment. When a TIF district is established and a redevelopment plan is adopted by City Council, the increased tax revenue is set aside by the County Treasurer and can be used by the City to repay eligible project costs that are specified in the redevelopment plan and allowed under state law. Such costs can be financed with TIF bonds or on a pay-as-you-go basis. For this project, the Developer has requested the use of pay-as-you-go financing.

Following the closing of this public hearing, the Board of County Commissioners and/or the Board of Education for USD 259 will have 30 days to determine whether establishment of the district will have an adverse impact on them, effectively precluding the use of tax increment financing. If the County and School District approve, or take no action within that time, the redevelopment district will be established.

It will still be up to the City Council to approve the actual use of tax increment financing by adopting a detailed project plan for the Planeview Redevelopment District that describes the use of tax increment financing. Once a redevelopment plan is adopted and sent to the County Clerk, the tax increment revenue generated by redevelopment will be set aside and deposited into a special fund for its prescribed use. TIF revenue will continue to be set aside in this way until all TIF-financed improvements have been paid.

Financial Considerations: Collection of the two percent (2%) CID sales tax on all taxable sales occurring within the district will begin following transmittal of the Ordinance to the Kansas Department of Revenue. The City will withhold five percent (5%) of the CID revenues distributed by the State, after giving credit for the application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition $2,083,430 has been reimbursed or the 22-year term has expired, whichever is earlier.

The establishment of a redevelopment district will facilitate the use of tax increment financing to pay the cost of a portion of public improvements constructed in conjunction with the proposed Planeview Grocery redevelopment project. Only if the project is approved, a redevelopment plan adopted, and the specific improvements authorized by Council action, will the tax increment revenues generated in the district actually be utilized.

The developer has requested pay-as-you-go financing, for both CID and TIF. Therefore, the City will not issue debt for this project. Proceeds will be held by the City and disbursed pursuant to a development agreement to reimburse eligible project costs.

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

Legal Considerations: State Law allows Community Improvement Districts to be established by Ordinance following a public hearing. Copies of the resolutions setting the public hearings were mailed, by certified mail, to all owners of property in the district and published twice in the local paper according to state law. Copies of the resolution setting the hearing for the establishment of the TIF district were also sent to the Board of Sedgwick County Commissioners and the U.S.D. 259 Board of Education, according to state law. The ordinances establishing a Community Improvement District and Redevelopment District (TIF) have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council close the public hearings and place on first reading the Ordinances establishing a community improvement district for the Planeview Grocery Store CID and establishing a redevelopment district for the Planeview Redevelopment District.

Attachments: Ordinances

028001 **PUBLISHED IN THE WICHITA EAGLE ON SEPTEMBER 24, 2010**

Ordinance No. 48-821

AN ORDINANCE OF THE CITY OF WICHITA ESTABLISHING
THE PLANEVIEW GROCERY STORE COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, the provisions of K.S.A. 12-6a26, as amended, (the "CID Act") set forth the procedure for the establishment of a Community Improvement District ("CID"); and

WHEREAS, the CID Act provides that prior to creating any CID, the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creation of such CID and the construction and expenditure of costs of community improvement district projects relating thereto, and give notice of the hearing, by publication once each week for two consecutive weeks in the official City newspaper, the second publication to be at least seven days prior to the hearing, and by the mailing of notice to the owners of property within the proposed CID; and

WHEREAS, the Governing Body of the City adopted Resolution No. R-10-208 (the "Resolution") on August 3, 2010, directing that a public hearing on the proposed Planeview Grocery Store CID be held September 14, 2010, and requiring that the City Clerk provide for notice of such public hearing as set forth in the CID Act; and

WHEREAS; the Resolution was published once each week for two consecutive weeks in the newspaper and notice of the hearing was given to all property owners within the proposed CID as required by the CID Act; and

WHEREAS, the CID Act further authorizes the City, in order to pay the costs of such projects, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a CID, in any increment of .10% or .25% not to exceed 2.0%, and to reimburse the costs of community improvement district projects from community improvement district sales tax; and

WHEREAS, on September 14, 2010, the Governing Body of the City conducted a public hearing on the proposed "Planeview Grocery Store CID", the proposed community improvement district projects related thereto, the method of financing the same and the imposition of a community improvement district sales tax; and

WHEREAS, the Governing Body of the City hereby finds and determines it to be advisable to create the Planeview Grocery Store CID and set forth the boundaries thereof, authorize CID Projects relating thereto, approve the maximum costs of such community improvement district projects, approve the method of financing the same and impose the community improvement district sales tax, all in accordance with the provisions of the CID Act;

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

Section 1. **Creation of The Planeview Grocery Store CID District**. The Governing Body hereby finds and determines it is advisable to create the Planeview Grocery Store CID within the City and approve the boundaries thereof, and, as such, hereby creates the Planeview Grocery Store CID and approves the boundaries thereof. A legal description of the property within the Planeview Grocery Store CID is set forth in **Exhibit B** attached hereto and incorporated by reference. A map generally outlining the boundaries of the Planeview Grocery Store CID is attached hereto as **Exhibit C** and incorporated herein by reference.

Section 2. **Authorization of CID Projects.** The Governing Body hereby finds and determines that it is advisable to authorize the community improvement district projects described on the attached **Exhibit A**, incorporated herein by reference, (the "CID Projects") within the Planeview Grocery Store CID and as such authorizes the CID Projects.

Section 3. Maximum Cost. The maximum cost of the CID Projects, exclusive of administrative fees and costs to be paid to the State of Kansas and to the City, is $2,083,430.

Section 4. Method of Financing The CID Projects will be financed on a pay-as-you-go basis from revenues received from the imposition of a community improvement district sales tax in the amount of two percent (2%) (the "CID Sales Tax") on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act within the Planeview Grocery Store CID. There will be no special assessments levied pursuant to the CID Act within the boundaries of the Planeview Grocery Store CID. There will be no bonds issued pursuant to the CID Act.

Section 5. **Imposition of the Community Improvement District Sales Tax.** In order to provide for the payment of costs of the CID Projects on a pay-as-you-go basis, the Governing Body hereby imposes the CID Sales Tax within the Planeview Grocery Store CID in an amount of two percent (2%) on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the Kansas retailers' sales tax act within the Planeview Grocery Store CID, with such CID Sales Tax to commence following submittal by the City of a certified copy of the ordinance to the Kansas Department of Revenue. Submittal to the Kansas Department of Revenue shall occur following publication of the ordinance and written notice from the developer requesting submittal. Such CID Sales Tax shall remain in effect for the maximum period provided for in the CID Act, or such period as may be required for payment from CID Sales Tax revenues of the maximum amount of costs approved for CID Projects in Section 3, above, whichever is the lesser period.

Section 6. Collection of the Sales Tax. The collection of the CID Sales Tax shall be made in the manner presented in the CID Act

Section 7. **Segregation of the Sales Tax Revenues.** All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Planeview Grocery Store CID Sales Tax Revenue Fund. Such revenues shall be used to pay the costs of the CID Projects on a pay-as-you-go basis and related expenses, including administrative fees and reimbursement to be paid to the State of Kansas and to the City.

Section 8. Effective Date. This Ordinance shall take effect from and after its passage by the Governing Body, and its publication once in the official newspaper of the City.

ADOPTED at Wichita, Kansas, this 21st day of September, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

Approved as to Form:

_____

Gary E. Rebenstorf, City Attorney

EXHIBIT A

PROJECT

The general nature of the proposed projects (the "**Projects**") is to construct a new sixteen thousand-foot grocery store to serve Planeview and the surrounding area and to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the District, marketing, advertisement and economic development, cleaning and maintenance, and the City's administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the Act.

EXHIBIT B

LEGAL DESCRIPTION

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

EXHIBIT "C"

Proposed Planeview Community Improvement District
City of Wichita, Kansas
Proposed Planeview Community Improvement District
Property Parcels within District
Property Parcels outside District
Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Printer
Map Data Source
Property Parcels
provided by
Sedgwick County GIS
Road Centerlines
provided by
City of Wichita
GIS
WICHITA
S GEORGE WASHINGTON BLVD
S GEORGE WASHINGTON DR
E CESSNA ST
E PAWNEE AVE
S BELMONT AVE
S BROADVIEW AVE
S FOUNTAIN AVE
NORTH

PUBLISHED IN THE WICHITA EAGLE ON SEPTEMBER 24, 2010

Ordinance No. 48-837

AN ORDINANCE OF THE CITY OF WICHITA
ESTABLISHING THE PLANEVIEW REDEVELOPMENT DISTRICT

WHEREAS, the provisions of K.S.A. 12-1771, as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the Governing Body of the City of Wichita, by Resolution No. R 10-209 dated August 3, 2010 , has given notice of its consideration of the establishment of a redevelopment district and described a proposed district plan that identifies all of the proposed redevelopment project areas along with a general description of the buildings and facilities to be constructed or improved; and

WHEREAS, the Planeview Redevelopment District area appears to qualify as an eligible area as a "blighted area" under the provisions of K.S.A. 12-1770a, as amended, in that

a. The development and growth of the City is substantially impaired or arrested,
b. The area constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use due to the presence of the following factors, constituting a majority of eligible factors:
    1. predominance of defective or inadequate street layout;
    2. unsanitary or unsafe conditions;
    3. deterioration of site improvements;
    4. improper subdivision or obsolete platting or land uses;
    5. the existence of conditions which endanger life or property by fire or other causes; and
    6. conditions which create economic obsolescence.

WHEREAS, the Governing Body of the City of Wichita, finds and determines that the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of the City; and

WHEREAS, a public hearing required by K.S.A. 12-1771, as amended has been held and concluded; and

WHEREAS, the Governing Body of the City of Wichita desires to establish a redevelopment district that encompasses the Planeview Redevelopment District area,

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

Section 1. The Governing Body hereby finds and determines that the Planeview Redevelopment District area qualifies as an eligible area as a "blighted area" under the provisions of K.S.A. 12-1770a, as amended, in that

a. The development and growth of the City is substantially impaired or arrested,
b. The area constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use due to the presence of the following factors, constituting a majority of eligible factors:
    1. predominance of defective or inadequate street layout;
    2. unsanitary or unsafe conditions;
    3. deterioration of site improvements;
    4. improper subdivision or obsolete platting or land uses;
    5. the existence of conditions which endanger life or property by fire or other causes; and
    6. conditions which create economic obsolescence.

Section 2. The conservation, development or redevelopment of the District is necessary to promote the general and economic welfare of the city. Therefore, a redevelopment district is hereby established that shall hereafter be designated the Planeview Redevelopment District, the description and boundaries of such redevelopment district in the City of Wichita, Sedgwick County, Kansas, are set forth in Exhibit "A" attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the Planeview Redevelopment District is attached hereto as Exhibit "B" and incorporated herein by reference

Section 3. The redevelopment district plan identifying all the proposed redevelopment project areas along with a general description of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area is adopted as the redevelopment district plan for the Planeview Redevelopment District, and is set forth in Exhibit "C" attached hereto and incorporated herein by reference.

Section 4. This ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 21st day of September, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

Approved as to Form:

_____

Gary E. Rebenstorf, City Attorney

EXHIBIT A

LEGAL DESCRIPTION

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

And:

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

EXHIBIT "B"

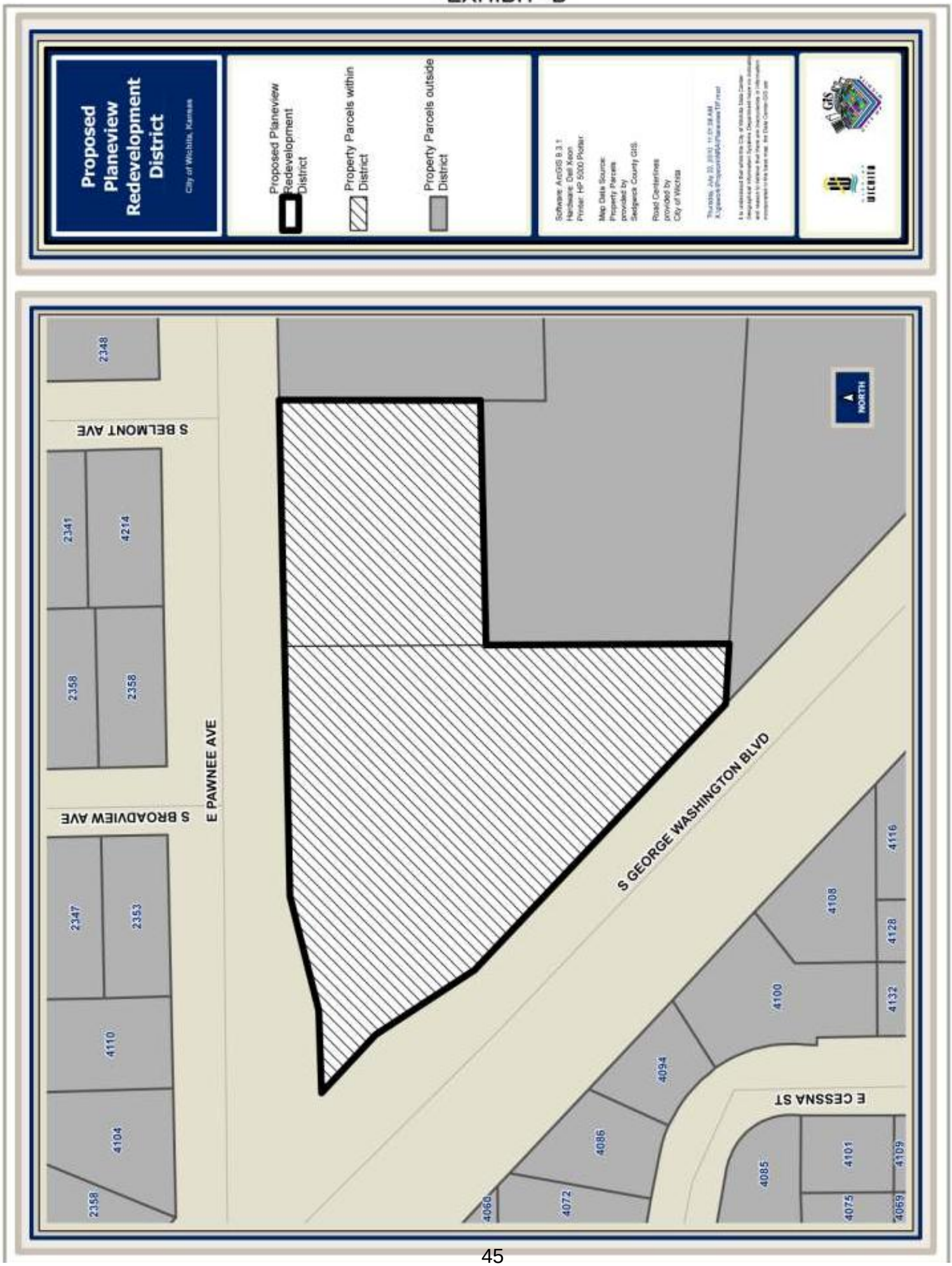

Proposed Planeview Redevelopment District
City of Wichita, Kansas
Proposed Planeview Redevelopment District
Property Parcels within District
Property Parcels outside District
Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter
Map Data Source:
Property Parcels
provided by
Sedgwick County GIS
Road Centerlines
provided by
City of Wichita
GIS
WICHITA
NORTH
S BELMONT AVE
S BROADVIEW AVE
E PAWNEE AVE
S GEORGE WASHINGTON BLVD
E CESSNA ST
2348
2341
4214
2358
2358
2347
2353
4110
4104
2358
4060
4072
4086
4094
4100
4108
4116
4128
4132
4085
4101
4109
4075
4069

EXHIBIT C

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

September 14, 2010

SECTION 1: PURPOSE

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

SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

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

SECTION 3: BUILDINGS AND FACILITIES

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

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

- Inadequate street layout. The layout of Pawnee and George Washington creates lots that are inadequately configured for development and traffic that is unable

to access the site.

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

SECTION 4: REDEVELOPMENT AND PROJECT AREAS

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

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

SECTION 5: CONCLUSION

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

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

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Public Hearing on the Establishment of a Community Improvement District for Maize 54 Development (District V)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the public hearing, place the ordinance on first reading and approve the development agreement.

Background: On June 24, 2010, the City received a petition from developer Jay Maxwell on behalf of Maize 54, LLC, requesting the creation of a Community Improvement District (CID) near the northeast corner of the intersection of Kellogg Drive and Maize Road, to be called the Maize 54 CID. On August 3, 2010, the City Council adopted a resolution stating its intent to consider the establishment of the proposed CID and setting September 14, 2010 as the time for a public hearing on this matter.

Analysis: Community Improvement Districts allow property owners to petition cities or counties to create districts in which certain special taxes are imposed and the resulting revenue used to fund public and private improvements and the payment of certain ongoing operating costs, within the districts. CID projects may be funded by either special assessment taxes on real property within the CID or by a special retail sales tax of up to two percent (2%) on all retail sales within the district, or both. Under the CID Act, cities and counties may use the CID tax revenues to repay bonds, either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to reimburse the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis. The maximum term of a CID is 22 years.

In April of 2010**,** the City Council adopted a policy which addresses how the City will utilize the tool and outlined the approval process. The City's CID Policy encourages the use of pay-as-you-go financing and allows the use of special obligation bonds, but does not permit the use of general obligation bonds. The CID Policy also requires a 100% petition and a public hearing.

Maize 54, LLC ("Developer") plans a 40-acre mixed-use commercial development which includes a 90,000 square foot family entertainment center, called the "Bowllagio," as its anchor, with bowling as the primary attraction, as well as restaurant and bar operations and state-of-the-art gaming attractions. Plans also include the development of hotels, restaurants, retail shops and parking facilities. The proposed CID currently only includes land owned by the Developer which will accommodate the Bowllagio, a proposed 110-room hotel, a parking structure and some retail. The developer plans to expand the CID, by petition, as additional adjacent land is acquired.

The CID financing is planned to be used for land acquisition and infrastructure construction within the district, and any other costs allowed by the CID Policy, including eligible operating costs. The petitioned maximum amount of CID financing is $75,000,000, which includes $22,000,000 in operating costs. The petition proposes imposition of a two percent (2%) CID sales tax, which will be collected for up to 22 years or until the Developer has been reimbursed for all eligible costs, whichever is earlier. A table

identifying the sources and uses of funds is provided below:

Sources		Uses	
Developer Financing and Other Sources	53,000,000	Buildings and facilities	$46,000,000
Developer Equity	6,000,000	Drainage Improvements	2,000,000
CID	16,000,000	Site Improvements and Amenities	2,000,000
		Public Street Improvements	1,000,000
		Professional Design Services	2,000,000
		Operating Expenses	22,000,000
	75,000,000		**75,000,000**

Upon adoption of the Ordinance, the City will have created the improvement district and authorized the imposition of a two percent (2%) sales tax to pay for eligible costs as identified in the development agreement. The CID sales tax will start to be collected following the delivery of a certified copy of the Ordinance to the Kansas Department of Revenue, upon instruction from the Developer.

The attached Development Agreement between the City and Maize 54, LLC provides the contractual framework for CID. The Developer will be required to submit certified expenditures to the City for reimbursement of eligible costs. The City will reimburse the Developer with CID funds for eligible costs as expenditures are approved if sufficient funds are available or quarterly as funds become available if funds are insufficient at the time.

Staff plans to present an amendment to the CID Policy in the near future, regarding use of CIDs in residential developments. Consideration will be given to a disclosure policy for CIDs that includes notices to existing occupants of CID districts and creation of a special website, linked to the City website, which identifies all CIDs and provides descriptive information, including a map showing their locations. In addition, the policy revision will address allowable assignments of CID funding to third parties.

Financial Considerations: Collection of the two percent (2%) CID sales tax on all taxable sales occurring within the district will begin following transmittal of the Ordinance to the Kansas Department of Revenue. The developer has requested pay-as-you-go financing, therefore the City will not issue debt for this project. Proceeds will be held by the City and disbursed pursuant to the development agreement. The City will withhold five percent (5%) of the CID revenues distributed by the State as an administrative service fee, after giving credit for the application fee, and disperse the balance of the CID proceeds to the developer until the maximum amount identified in the petition ($75,000,000) has been reimbursed or the 22-year term has expired, whichever is earlier.

Goal Impact: Economic Vitality and Affordable Living and Quality of Life. Business prospects and workers seeking to relocate are attracted to a new city that takes care of its older sections.

Legal Considerations: State law allows community improvement districts to be established by Ordinance following a public hearing. Copies of the resolution setting the public hearing were mailed, by certified mail, to all owners of property in the district and published twice in the City's official newspaper according to state law. The ordinance and development agreement have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council close the public hearing, place on first reading the Ordinance establishing a community improvement district for the Maize 54 CID, and approve the Development Agreement.

Attachments: Ordinance and Development Agreement

028001 **PUBLISHED IN THE WICHITA EAGLE ON SEPTEMBER 24, 2010**

Ordinance No. 48-823

AN ORDINANCE OF THE CITY OF WICHITA ESTABLISHING
THE MAIZE 54 COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, the provisions of K.S.A. 12-6a26, as amended, (the "CID Act") set forth the procedure for the establishment of a Community Improvement District ("CID"); and

WHEREAS, the CID Act provides that prior to creating any CID, the Governing Body shall, by resolution, direct and order a public hearing on the advisability of creation of such CID and the construction and expenditure of costs of community improvement district projects relating thereto, and give notice of the hearing by publication once each week for two consecutive weeks in the official City newspaper, the second publication to be at least seven days prior to the hearing, and by the mailing of notice to the owners of property within the proposed CID; and

WHEREAS, the Governing Body of the City adopted Resolution No. R-10-206 (the "Resolution") on August 3, 2010, directing that a public hearing on the proposed Maize 54 CID be held September 14, 2010, and requiring that the City Clerk provide for notice of such public hearing as set forth in the Act; and

WHEREAS; the Resolution was published once each week for two consecutive weeks in the newspaper and notice of the hearing was given to all property owners within the proposed CID as required by the CID Act; and

WHEREAS, the CID Act further authorizes the City, in order to pay the costs of such projects, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a CID in any increment of .10% or .25% not to exceed 2.0% and to reimburse the costs of community improvement district projects from community improvement district sales tax; and

WHEREAS, on September 14, 2010, the Governing Body of the City conducted a public hearing on the proposed "Maize 54 CID", the proposed community improvement district projects related thereto, the method of financing the same and the imposition of a community improvement district sales tax; and

WHEREAS, the Governing Body of the City hereby finds and determines it to be advisable to create the Maize 54 CID and set forth the boundaries thereof, authorize CID Projects relating thereto, approve the maximum costs of such community improvement district projects, approve the method of financing the same and impose the community improvement district sales tax, all in accordance with the provisions of the CID Act;

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

Section 1. **Creation of The Maize 54 CID District**. The Governing Body hereby finds and determines it is advisable to create the Maize 54 CID within the City and approve the boundaries thereof, and, as such, hereby creates the Maize 54 CID and approves the boundaries thereof. A legal description of the property within the Maize 54 CID is set forth in **Exhibit B** attached hereto and incorporated by reference. A map generally outlining the boundaries of the Maize 54 CID is attached hereto as **Exhibit C** and incorporated herein by reference.

Section 2. **Authorization of CID Projects.** The Governing Body hereby finds and determines that it is advisable to authorize the community improvement district projects described on the attached **Exhibit A**, incorporated herein by reference, (the "CID Projects") within the Maize 54 CID and as such authorizes the CID Projects.

Section 3. Maximum Cost. The maximum cost of the CID Projects, exclusive of administrative fees and costs to be paid to the State of Kansas and to the City, is $75,000,000.

Section 4. Method of Financing The CID Projects will be financed on a pay-as-you-go basis from revenues received from the imposition of a community improvement district sales tax in the amount of two percent (2%) (the "CID Sales Tax") on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act within the Maize 54 CID. There will be no special assessments levied pursuant to the CID Act within the boundaries of the Maize 54 CID. There will be no bonds issued pursuant to the CID Act.

Section 5. **Imposition of the Community Improvement District Sales Tax.** In order to provide for the payment of costs of the CID Projects on a pay-as-you-go basis, the Governing Body hereby imposes the CID Sales Tax within the Maize 54 CID in an amount of two percent (2%) on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the Kansas retailers' sales tax act within the Maize 54 CID, with such CID Sales Tax to commence following submittal by the City of a certified copy of the ordinance to the Kansas Department of Revenue. Submittal to the Kansas Department of Revenue shall occur following publication of the ordinance and written notice from the developer requesting submittal. Such CID Sales Tax shall remain in effect for the maximum period provided for in the CID Act, or such period as may be required for payment from CID Sales Tax revenues of the maximum amount of costs approved for CID Projects in Section 3, above, whichever is the lesser period.

Section 6. Collection of the Sales Tax. The collection of the CID Sales Tax shall be made in the manner presented in the CID Act

Section 7. **Segregation of the Sales Tax Revenues.** All revenues derived from the collection of the CID Sales Tax shall be deposited into a special fund of the City to be designated as the Maize 54 CID Sales Tax Revenue Fund. Such revenues shall be used to pay the costs of the CID Projects on a pay-as-you-go basis and related expenses, including administrative fees and reimbursement to be paid to the State of Kansas and to the City.

Section 8. Effective Date. This Ordinance shall take effect from and after its passage by the Governing Body, and its publication once in the official newspaper of the City.

ADOPTED at Wichita, Kansas, this 21st day of September, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

Approved as to Form:

_____

Gary E. Rebenstorf, City Attorney

EXHIBIT A

PROJECT

The general nature of the proposed projects (the "**Projects**") is to construct a mixed-use commercial district with an estimated overall cost of $95 million over an estimated 5-year development period and to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, ongoing maintenance of the District, marketing, advertisement and economic development, cleaning and maintenance, and the City's administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the CID Act.

EXHIBIT B

LEGAL DESCRIPTION

TRACT A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30" E along the common line as extended East, 200 feet; thence S0l °18'15"E, 275 feet; thence N88°20'30" E, 399.5 feet; thence N01 °18'15"W, 275 feet; thence N88°20'30"E, 205.96 feet; thence S14°10'35"E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74°04'48"E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S0l°28'11"E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a point on the North line of said U.S. 54 Highway; thence S74°04'48"W along said U.S. 54 Highway, 419.31 feet; thence S15°55'12"E, 125 feet; thence S71°17'23"W, 324.5 feet; thence S76°05'36"W, 210.7 feet; thence S83°50'05"W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01°19'41"W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88°12'33"W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01°18'15"W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

TRACT B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88°20'30"E, 399.5 feet; thence S0l°18'15"E, 275 feet; thence S88'20'30"W, 399.5 feet; thence N01°18'15"W, 275 feet to the point of beginning;

ALONG WITH,

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650; thence N12°55'02"W along said Easement, 59.72 feet; thence continuing along said

Easement N36°46'09"W, 96.11 feet; thence N51°17'57"W, 146.12 feet; thence N35°39'24"W, 95.48 feet; thence N16°26'04"W, 10l.68 feet; thence N1l°19'07"W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33'08"W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20'54"W, 124.1 feet; thence N25°52'23"E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20'41"W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S0l °18'15"E along the East line of said Verda Vista, 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20'41"W, 220 feet to the N.W. corner of said Lot 5; thence S0l°18'15"E, 100 feet to the S.W. corner of said Lot 5; thence N88°20'41"E, 220 feet to the S.E. comer of said Lot 5; thence S0l°18'15"E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

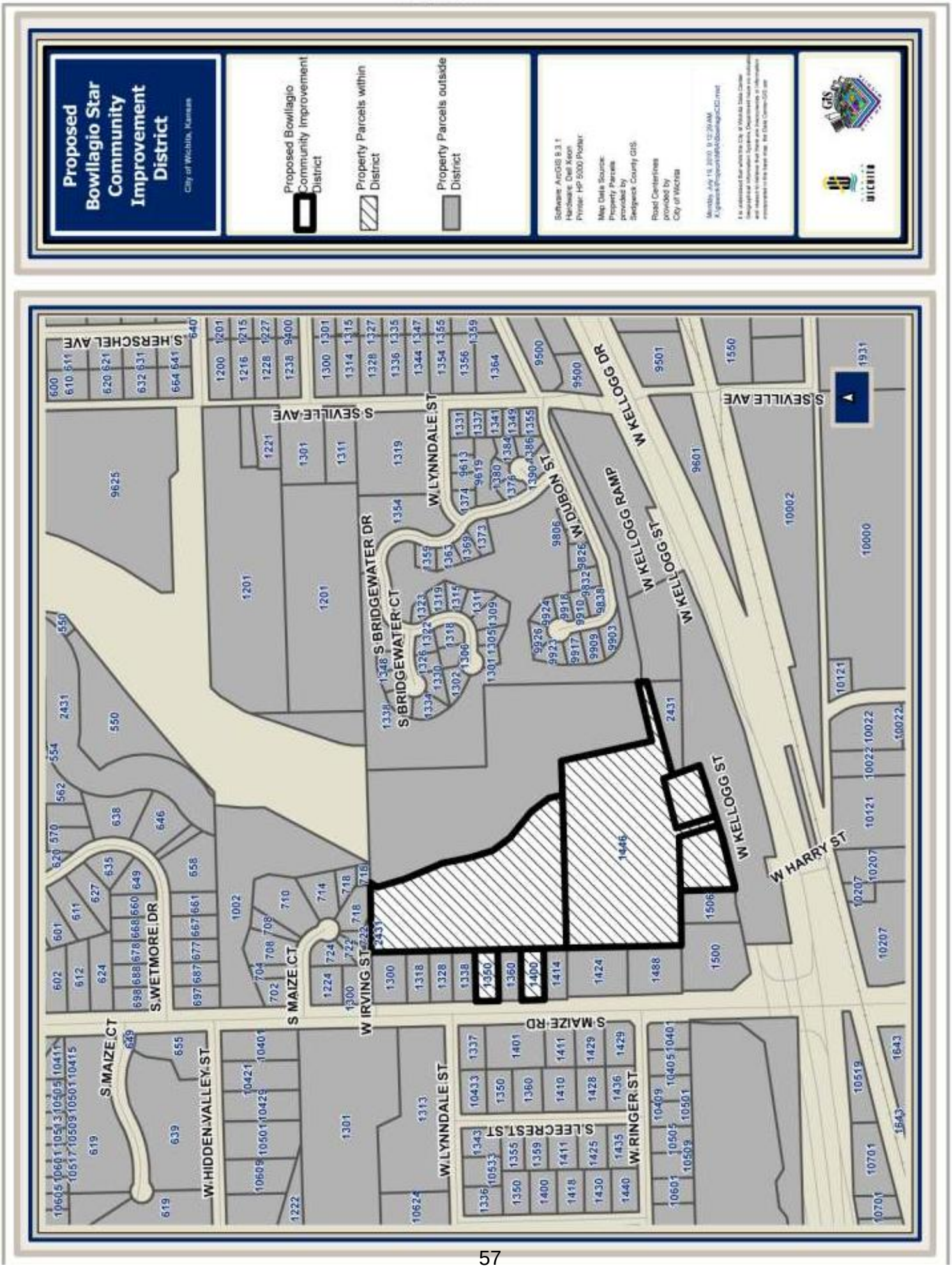
ALONG WITH,

TRACT C

Lot 7, Verda Vista, Sedgwick County, Kansas.

Said tract contains 22,000 square feet more or less.

Exhibit "C"


Proposed Bowllagio Star Community Improvement District
City of Wichita, Kansas
Proposed Bowllagio Community Improvement District
Property Parcels within District
Property Parcels outside District
Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter
Map Data Source:
Property Parcels provided by Sedgwick County GIS
Road Centerlines provided by City of Wichita
S.HERSCHEL AVE
S.SEVILLE AVE
W.LYNNDALE ST
S.BRIDGEWATER DR
S.BRIDGEWATER CT
W.DUBON ST
W KELLOGG DR
W KELLOGG RAMP
W KELLOGG ST
W HARRY ST
S.WETMORE DR
S.MAIZE CT
W IRVING ST
S MAIZE RD
S.LEECREST ST
W.RINGER ST
W.HIDDEN VALLEY ST

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this _____ day of _____, 2010 by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the "City"); and **MAIZE 54, LLC**, (the "Developer") (with the "Developer" and the "City" collectively referred to as the "Parties" and each a "Party").

RECITALS

A. The City has authority to create a community improvement district ("CID"), pursuant to K.S.A. § 12-6a26 *et seq*. (the "CID Act"), for the purpose of financing certain public and private improvements as defined therein. Under the CID Act, the owners of at least 55% of the total assessed value and land area within the proposed CID boundaries may petition the City to request the creation of a CID and to impose special assessments or a special sales tax to pay the cost of eligible projects.

B. The Developer is the owner of certain land in the City located in the vicinity of the intersection of U.S. Highway 400/54 and Maize Road within the City (the "Project").

C. On June 24, 2010, the Developer, along with other property owners within the Project, submitted a petition (the "Petition") to the City requesting the formation of a community improvement district (the "District"). A copy of the Petition is attached hereto as **Exhibit A**. A legal description and map of the boundaries of the District is set forth on **Exhibit B** attached hereto.

D. On September 21, 2010, the City approved the creation of the District through the adoption of Ordinance No. ____ (the "CID Ordinance"). As was contemplated in the Petition, the CID Ordinance approved certain public and private improvements within the District (the "CID Improvements"), as well as certain administrative and operating expenses to be incurred within the District, as more particularly described on **Exhibit C** attached hereto (collectively, the "CID Costs"), to be financed with pay-as-you-go financing payable from revenues received from the imposition of an additional 2% sales tax on all taxable sales within the District (the "CID Sales Tax"). The CID Sales Tax shall commence following submittal by the City of a certified copy of the ordinance to the Kansas Department of Revenue. Submittal to the Kansas Department of Revenue shall occur following publication of the ordinance and written notice from the developer requesting submittal.

E. The Parties now desire to enter into this Agreement to formalize the construction and financing of the CID Improvements.

NOW, **THEREFORE**, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

A. Definitions of Words and Terms. Capitalized words used in this Agreement shall have the meanings set forth in the Recitals to this Agreement or they shall have the following meanings:

1. "Agreement" means this Agreement as may be amended in accordance with the terms hereof.

2. "CID Act" means K.S.A. § 12-6a26 *et seq*.

3. "CID Bonds" means community improvement district special obligation bonds issued by the City to finance all or a portion of the CID Projects, if any.

4. "CID Costs" means, collectively, the costs of the CID Improvements and other eligible expenses related to the Project to the extent such expenses are "costs" of a "project" as defined in the CID Act, the estimated amounts of which are shown in **Exhibit C**, which also includes the City's administrative service fee. In the event KSA 12-6a27(f) is subsequently amended or construed by a judicial or attorney general's opinion to include in the definition of "cost" interest accrued on borrowed money after the period of construction, post-construction costs of private financing shall then also be deemed included in "CID Costs."

5. "CID Improvements" means the projects and related permissible improvements as set forth in the CID Act and the CID Ordinance.

6. "CID Policy" means the policy of the City of Wichita governing the use of CID financing within the City, as originally approved by the City Council on April 6, 2010 and as amended from time-to-time thereafter.

7. "CID Ordinance" means Ordinance No. _____ adopted by the City on September 21, 2010.

8. "CID Sales Tax" means the community improvement district sales tax authorized by the CID Act and the CID Ordinance.

9. "CID Sales Tax Fund" means the separate fund established by the City for deposit of the CID Sales Tax received from the State collected within the District, and that is used to finance the CID Costs pursuant to the CID Act.

10. "City" means the City of Wichita, Kansas.

11. "City Representative" means the City Manager or his or her designee as evidenced by a written certificate furnished to the Developer containing the specimen signature of such person or persons and signed by the City Manager.

12. "Developer" means Maize 54, LLC**,** and its successors and assigns.

13. "Event of Default" means any event or occurrence as defined in Article VI of this Agreement.

14. "Parties" means the City and the Developer.

15. "Pay-as-you-go financing" means pay-as-you-go financing, as that term is defined in the CID Act, which financing shall be used to pay the CID Costs.

16. "State" means the State of Kansas.

17. "Term" means the earlier of twenty-two (22) years from the date the Director of Taxation for the State of Kansas begins collecting the CID Sales Tax within the District or when all CID Costs have been paid.

B. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

1. The terms defined in this Article include the plural as well as the singular.

2. All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted governmental accounting principles.

3. All references herein to "generally accepted governmental accounting principles" refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

4. All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed.

5. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

6. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

ARTICLE II
DEVELOPMENT OF THE PROJECT

A. Completion of the CID Improvements. Any of the CID Improvements completed by the Developer shall be in conformance with approved plans for such improvements, City building codes, City Ordinances and all other applicable rules and regulations. Before commencement of construction or development of any buildings, structures or other work or improvement, the Developer shall obtain any and all permits which may be required by the City

and any other governmental agency having jurisdiction as to such construction, development or work.

B. Cost of the Project. The Developer shall be responsible for and will bear all the CID Costs, subject to the terms of this Agreement governing reimbursement for expenditures on the CID Costs.

ARTICLE III
CID FINANCING

A. CID Sales Tax. The City shall deliver a certified copy of the CID Ordinance to the Kansas Department of Revenue imposing the CID Sales Tax upon the receipt of written notice from the Developer requesting such delivery. Except as otherwise set forth herein, all of the CID Sales Tax shall be available for and dedicated to pay the CID Costs for the duration of the Term.

B. CID Sales Tax Fund. During the existence of the District all CID Sales Taxes generated within the District shall be deposited into a CID Sales Tax Fund, which shall be established and administered by the City in compliance with the laws of the State of Kansas and this Agreement and shall be held solely for the payment of the CID Costs and shall not be otherwise expended or commingled with other funds.

C. Pay-as-you-go Financing of the CID Costs. The CID Sales Tax shall be used to reimburse the Developer for the CID Costs, as described in **Exhibit C**. The City hereby agrees that the estimates of expenses related to the CID Costs may change prior to and during the expenditure of the CID Costs. Unless otherwise agreed by the Parties in writing, reimbursements shall be made solely to the Developer unless otherwise set forth in this Agreement, except for payment of the City's administrative service fee, which will be deducted in advance by the City.

D. Certification of Expenditures. The Developer shall certify all costs and expenditures to be made in connection with the CID Costs in accordance with the following:

1. The Developer shall submit to the City a Certification of Expenditure in the form attached hereto as **Exhibit D** setting forth the amount for which reimbursement is sought and an itemized listing of the related CID Improvement.

2. Each Certification of Expenditure shall be accompanied by such bills, contracts, invoices, and other evidence as the City shall reasonably require to document appropriate payment.

E. Reimbursement. The City shall have twenty (20) calendar days after receipt of any Certification of Expenditure to review and respond by written notice to the Developer. If the submitted documentation demonstrates that: (1) the Certification of Expenditure shows payment by the Developer of the CID Costs; (2) the expense was incurred; (3) the Developer is not in material default under this Agreement; and (4) there is no fraud on the part of the Developer, then the City shall approve the Certification of Expenditure and promptly reimburse the Developer for the CID Costs pursuant to the terms of this Agreement if sufficient funds are available in the CID Sales Tax Fund, and quarterly as funds become available in the event that

funds in the CID Sales Tax Fund are at that time insufficient. If the City reasonably disapproves of the Certification of Expenditure, the City shall notify the Developer in writing of the reason for such disapproval within such twenty (20) day period.

F. Payment of the City's Administrative Service Fee. The City shall be paid from the CID Sales Tax Fund an administrative service fee in an amount equal to five percent (5%) of the total CID revenues generated within the District. The $5,000 application fee shall be applied as a credit toward payment of the administrative service fee

ARTICLE IV
DEFAULTS AND REMEDIES

F. Defaults - General. The following events shall constitute an Event of Default under this Agreement:

1. Subject to the extensions of time set forth in subsection F below (Enforced Delay), failure or delay by any Party to perform any term or provision of this Agreement, after receiving written notice and failing to cure, as set forth in paragraph (2) below, constitutes a default under this Agreement. A Party claiming a default (claimant) shall give written notice of default to the other parties, specifying the default complained of.

2. The claimant shall not institute proceedings against a Party, nor be entitled to damages if the other Party within fourteen (14) days from receipt of such written notice, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within thirty (30) days from the date of receipt of such notice or if such cure, correction or remedy by its nature cannot be effected within such thirty (30) day period, such cure, correction or remedy is diligently and continuously prosecuted until completion thereof.

G. Remedies on Default. Whenever any Event of Default by the City shall have occurred and be continuing, subject to applicable cure periods, the Developer may pursue any remedy at law and in equity, except as provided below. Whenever any Event of Default by the Developer shall have occurred and be continuing, subject to applicable cure periods, the City may (1) pursue any remedy at law and in equity, except as provided below, and/or (2) refuse to approve any further Certificates of Expenditures and make any disbursements until such Event of Default is cured by the Developer and/or terminate this Agreement. Notwithstanding any other provision of this Agreement to the contrary, in no event shall the Developer or the City ever be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement, or otherwise. For the purposes of this Section, consequential damages shall include, but not be limited to, lost profits, lost tax revenue, or other similar losses which are not direct out-of-pocket costs incurred by the non-defaulting Party. Further, specific performance shall not be available to the City to require the Developer to construct any improvements within the District. The only remedy that may be sought from the City is strictly limited to use of CID revenues available in the CID Fund to pay CID Costs (i.e., the City can have no liability under this Agreement that in any way extends to its general or tax funds, or any other source of funds apart from the CID revenues derived from this project), except that, in case of any diversion by the City of CID revenues from the CID Fund in breach of this Agreement, the City will be

obligated to restore such diverted revenues, dollar for dollar, from any lawfully available source of appropriations.

H. Legal Actions.

1. Institution of Legal Actions. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Sedgwick County, Kansas or, if federal jurisdiction exists, in the Federal District Court in the District of Kansas.

2. Applicable Law. The laws of the State of Kansas shall govern the interpretation and enforcement of this Agreement.

3. Acceptance of Service of Process.

(a) In the event that any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law.

(b) In the event that any legal action is commenced by the City against the Developer, service of process on the Developer shall be made by personal service upon an officer or agent of the Developer and shall be valid whether made within or without the State of Kansas or in such other manner as may be provided by law. In the event the Developer no longer has an officer or registered agent to serve, the Secretary of State is hereby irrevocably appointed to accept service for the Developer.

I. Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by a Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

J. Inaction Not a Waiver of Default. Any failures or delays by a Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such Party of its right to institute and maintain any action or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

K. Enforced Delay; Extension of Times of Performance.

1. In addition to specific provisions of this Agreement, performance by a Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the Party seeking the extension has acted diligently and delays or defaults are due to default of the other Party; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; market conditions; quarantine restrictions; freight embargoes; lack of transportation; or unusually severe weather; or any other causes

beyond the control or without the fault of the Party claiming an extension of time to perform.

2. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City and the Developer.

ARTICLE V
GENERAL PROVISIONS

A. Termination of the CID. The City shall not terminate the CID prior to the expiration of its Term, except as provided by law, or as requested by the Developer.

B. Modification of the District. From time to time during the Term, the Developer may request, and the City shall reasonably consider, any modification to the District, in accordance with the CID Act and the CID Policy.

C. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the Parties, upon official action of the City's governing body approving said amendment, and by the execution of said amendment by the Parties or their successors in interest. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, the Parties shall take such reasonable measures including, but not limited to, reasonable amendment of this Agreement to cure such invalidity where the invalidity contradicts the clear intent of the Parties in entering into this Agreement.

D. Assignment. No Party may assign all or any part of its interest in this Agreement without the prior written consent of the other Parties, and any such assignment without such consent shall be void; except that the Developer may assign all or any part of its interest in this Agreement upon the prior written consent of the City Representative; provided, however, in the event the City Representative does not consent to such assignment, the Developer may proceed before the City's governing body to request that such assignment be approved; and provided further that any such assignments be administered through a single, third party fiduciary who would receive any payments made pursuant to such assignments and distribute funds to assignees and who would be responsible for calculating any subdivision of funds for such distribution. Under no circumstances shall the City be responsible for determining the amount of funds to be assigned under this provision. Notwithstanding the foregoing, the Developer, with prior written notice to the City, may make a collateral assignment of 100% its rights under this Agreement to a single financial institution as security for a financing of the Project. Any decision to consent or refuse consent to an assignment pursuant to this paragraph shall solely at the discretion of the City Representative or the City's governing body, as the case may be. Nothing herein shall be construed to delegate rights or responsibilities of the City under this agreement, including without limitation the determination of eligible project costs for reimbursement.

E. Right to Inspect. The Developer agrees that the City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, inspect,

audit, and copy, from time to time, all of the Developer's books and records relating to the CID Costs as pertinent to the purposes of this Agreement.

F. Right of Access. For the purposes of assuring compliance with this Agreement, the City Representative shall have the right of access to the District, without charges or fees, during normal business hours for purposes related to this Agreement, including, but not limited to, the inspection of the work being performed in constructing any of the CID Improvements.

G. No Other Agreement. Except as otherwise expressly provided herein, this Agreement and all documents incorporated herein by reference supersedes all prior agreements, negotiations and discussions, both written and oral, relative to the subject matter of this Agreement and is a full integration of the agreement of the Parties.

H. Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. In no such event shall the validity or enforceability of the remaining valid portions hereof be affected.

I. Notice. All notices and requests required pursuant to this Agreement shall be in writing and shall be sent as follows:

To the Developer:

Maize 54, LLC
Attention: Jay Maxwell
1634 E. Central Avenue
Wichita, Kansas 67214

With copies to:

Korb W. Maxwell
Polsinelli Shughart, P.C.
6201 College Blvd., Ste. 500
Overland Park, KS 66211

To the City:

City Manager
City Hall, 13th Floor
455 N. Main
Wichita, Kansas 67202

With copies to:

Urban Development Office
Attention: Allen Bell
City Hall, 13th Floor
455 N. Main
Wichita, Kansas 67202

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

J. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

K. Recordation of Agreement. The Parties agree to execute and deliver a memorandum of this Agreement in proper form for recording in the real property records of Sedgwick County, Kansas.

L. Consent or Approval. Except as otherwise provided in this Agreement, whenever consent or approval of either Party is required, such consent or approval shall not be unreasonably withheld.

M. Survivorship. Notwithstanding the termination of this Agreement, the Developer's obligations set out in Article II and Section V.E. shall survive the termination of this Agreement to the extent that any incident giving rise to a claim, suit, judgment or demand occurred during Term.

N. Incorporation of Exhibits. The Exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City and the Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, City Attorney

MAIZE 54, LLC

By: _____

Jay Maxwell, Managing Member

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2010, before me personally appeared Jay Maxwell to me personally known, who being by me duly sworn did say that he is the Managing Member of Maize 54, LLC, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free 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 first above written.

_____
NOTARY PUBLIC

My Commission Expires:

_____
[SEAL]

EXHIBIT LIST

EXHIBIT A – CID PETITION

EXHIBIT B – LEGAL DESCRIPTION AND MAP EXHIBIT OF DISTRICT

EXHIBIT C – CID COSTS

EXHIBIT D – CERTIFICATION OF EXPENDITURES

EXHIBIT A
CID PETITION

EXHIBIT B
LEGAL DESCRIPTION AND MAP EXHIBIT OF DISTRICT

EXHIBIT C
CID COSTS

RECEIVED
JUL 23 '10
CITY CLERK OFFICE

COMMUNITY IMPROVEMENT DISTRICT 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/provided in **Exhibit A** attached hereto:

IMPROVEMENT DISTRICT

do hereby petition pursuant to the provisions of K.S.A. 12-6a26 et seq., as amended (the "Act"):

(a) **General Nature**: That the general nature of the proposed community improvement district ("CID") project, Maize 54 (the **"Project"**), is a mixed-use commercial district that is anticipated to leverage approximately $95 million in private capital investment over an estimated 5-year development period in accordance with the general development plan as depicted in **Exhibit B** attached hereto . The undersigned request the City of Wichita to assist the Project by providing community improvement financing in accordance with City of Wichita policy and the Act to finance the construction, maintenance, and procurement of certain improvements, costs and services within the District, which may include, but are not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities ,and the City's financing costs (if any) as well as the City's administrative costs in establishing and maintaining the District.

(b) **Estimated Cost**: That the estimated cost of the Project is **$95 Million Dollars ($95,000,000)** of which the maximum CID eligible cost is **$75 Million Dollars ($75,000,000),** exclusive of the cost of interest on borrowed money and exclusive of any other public funds that may be received. See attached "**Exhibit C**" for a detailed budget.

(c) **Proposed Method of Financing**: That the proposed Projects be financed through the use of a *"Pay-as-you-go basis"* as defined in the Act.

(d) **Proposed Amount of Sales Tax**: That the proposed amount of Community Improvement District sales tax, if any, shall be an *increment of 2%* for twenty two (22) **years**.

(e) That a legal description map of the proposed CID are attached hereto as **Exhibits A and D,** respectively.

2) It is requested that the improvement hereby petitioned be made with notice and public hearing, pursuant to City policy.

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, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

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 the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
Improvement District		
Maize 54, LLC	Jay S. Maxwell, Member	6-23-10

[Please include printed names, as well as titles and representative capacity if the signer is signing for a business entity other than a natural person, and have each signature be notarized]

EXHIBIT A

TRACT A

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet; thence S01°18'15"E, 275 feet; thence N88°20'30"E, 399.5 feet; thence N01°18'15"W, 275 feet; thence N88°20'30"E, 205.96 feet; thence S14°10'35"E, 401.95 feet to a point 40 feet North of the North line of U.S. 54 Highway as deeded on Film 2144, Page 1847; thence N74°04'48"E parallel with and 40 feet North of said U.S. 54 Highway, 258.59 to a point on the West line of Miles Lakewood Village Second Addition, Wichita Sedgwick County, Kansas; thence S01°28'11"E along the West line of said Miles Lakewood Village Second Addition, and Davis Moore 12th Addition, Wichita Sedgwick County, Kansas, 41.31 feet to a point on the North line of said U.S. 54 Highway; thence S74°04'48"W along said U.S. 54 Highway, 419.31 feet; thence S15°55'12"E, 125 feet; thence S71°17'23"W, 324.5 feet; thence S76°05'36"W, 210.7 feet; thence S83°50'05"W, 19.89 feet to the S.E. corner Lot 1, Block A, Quiktrip 10th Addition, Wichita, Sedgwick County, Kansas; thence N01°19'41"W, 236.41 feet to the N.E. corner of said Quiktrip 10th Addition; thence S88°12'33"W along the North line of said Quiktrip 10th and the North line of Lot 1, Block A, Quiktrip 8th Addition, Wichita, Sedgwick County, Kansas, 236 feet to a bend point in the East line of said Quiktrip 8th Addition; thence N01°18'15"W along the East line of said Quiktrip 8th Addition and said Kansas State Bank Addition, 500 feet to the point of beginning.

Said tract contains 414,279 square feet more or less.

TRACT B

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas described as Commencing at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 200 feet to the Point of Beginning thence continuing N88°20'30"E, 399.5 feet; thence S01°18'15"E, 275 feet; thence S88°20'30"W, 399.5 feet; thence N01°18'15"W, 275 feet to the point of beginning;

ALONG WITH,

That part of the SW1/4 Section 29, Township 27, South, Range 1 West of the 6th P.M. Sedgwick County, Kansas and Lot 5, Verda Vista, Sedgwick County, Kansas all being described as Beginning at the N.E. corner of Lot 1, Block A, Kansas State Bank Addition, Wichita Sedgwick County, Kansas being a common corner of the S.E. corner of Lot 8, Verda Vista Sedgwick County, Kansas; thence N88°20'30"E along the common line as extended East, 659.8 feet to a point on the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG:

28652650; thence N12°55'02"W along said Easement, 59.72 feet; thence continuing along said Easement N36°46'09"W, 96.11 feet; thence N51°17'57"W, 146.12 feet; thence N35°39'24"W, 95.48 feet; thence N16°26'04"W, 101.68 feet; thence N11°19'07"W, 120.39 feet along the West line of a Ponding and Overland Flowage Easement filed on DOC#/FLM-PG: 28652650, and DOC#/FLM-PG: 28652651; thence continuing N22°33'08"W, along said DOC#/FLM-PG: 28652651, 179.57 feet; thence N16°20'54"W, 124.1 feet; thence N25°52'23"E, 38.55 feet more or less to a point on the South line of the North 40 acres of the SW1/4 of said Section 29; thence S88°20'41"W along the South line of the North 40 acres of said SW1/4, 299.04 feet to a point 270 feet East of the West line of said SW1/4, said point being 30 feet North of the N.E. corner of Lot 1, Verda Vista Sedgwick County, Kansas; thence S01°18'15"E along the East line of said Verda Vista , 450 feet to the N.E. corner of Lot 5, in said Verda Vista; thence S88°20'41"W, 220 feet to the N.W. corner of said Lot 5; thence S01°18'15"E, 100 feet to the S.W. corner of said Lot 5; thence N88°20'41"E, 220 feet to the S.E. corner of said Lot 5; thence S01°18'15"E, 300 feet to the point of beginning.

Said tract contains 495,992 square feet more or less.

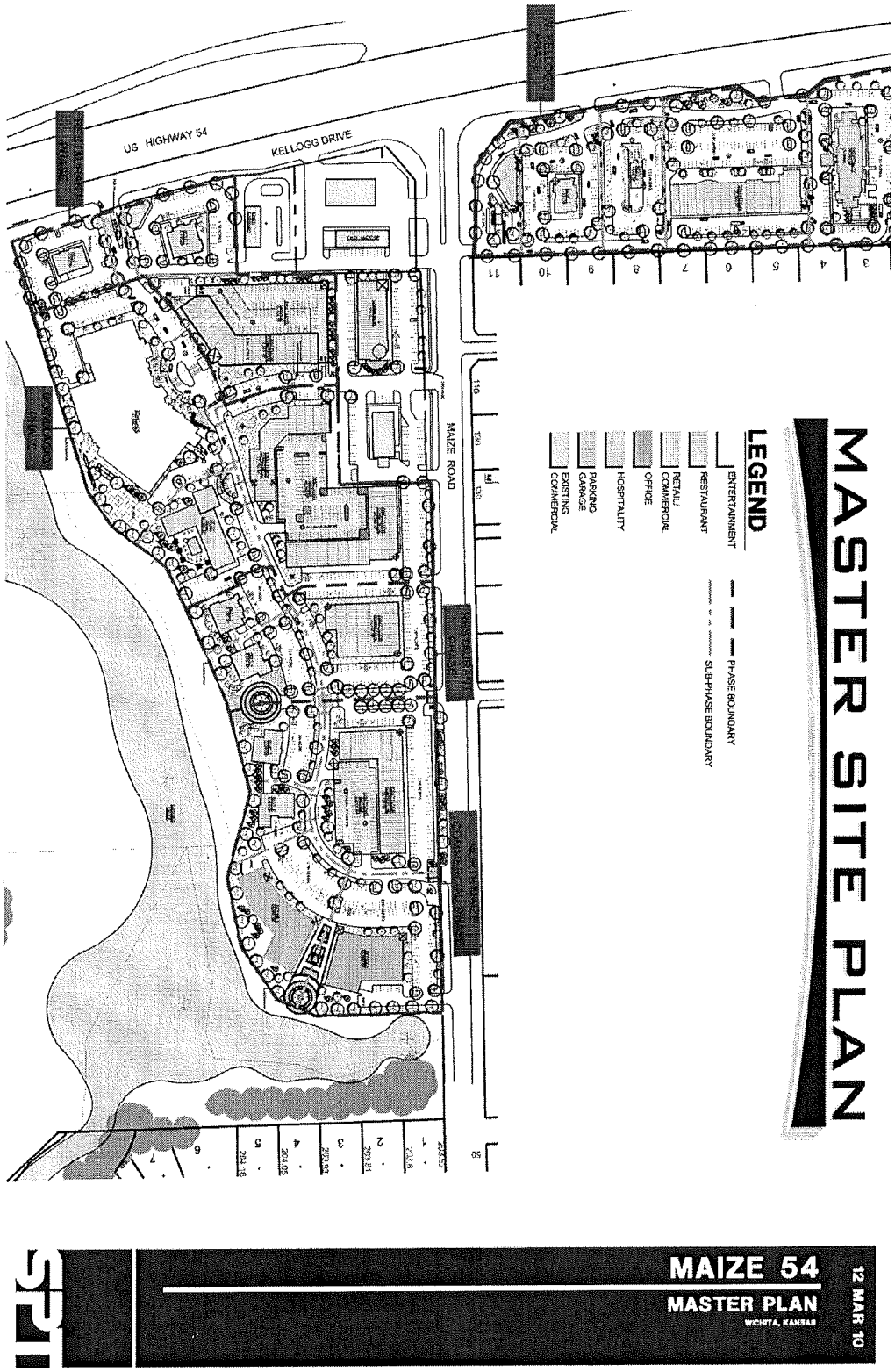
ALONG WITH,

TRACT C

Lot 7, Verda Vista, Sedgwick County, Kansas.

Said tract contains 22,000 square feet more or less.

EXHIBIT B


US HIGHWAY 54
KELLOGG DRIVE
MAIZE ROAD
MASTER SITE PLAN
LEGEND
ENTERTAINMENT
RESTAURANT
RETAIL/ COMMERCIAL
OFFICE
HOSPITALITY
PARKING GARAGE
EXISTING COMMERCIAL
PHASE BOUNDARY
SUB-PHASE BOUNDARY
MAIZE 54
MASTER PLAN
WICHITA, KANSAS
12 MAR 10

Maize 54, LLC
COMMUNITY IMPROVEMENT DISTRICT
Use of Funds

Sources of Funds

CID	$ 16,000,000	
		$ 16,000,000

Uses of Funds

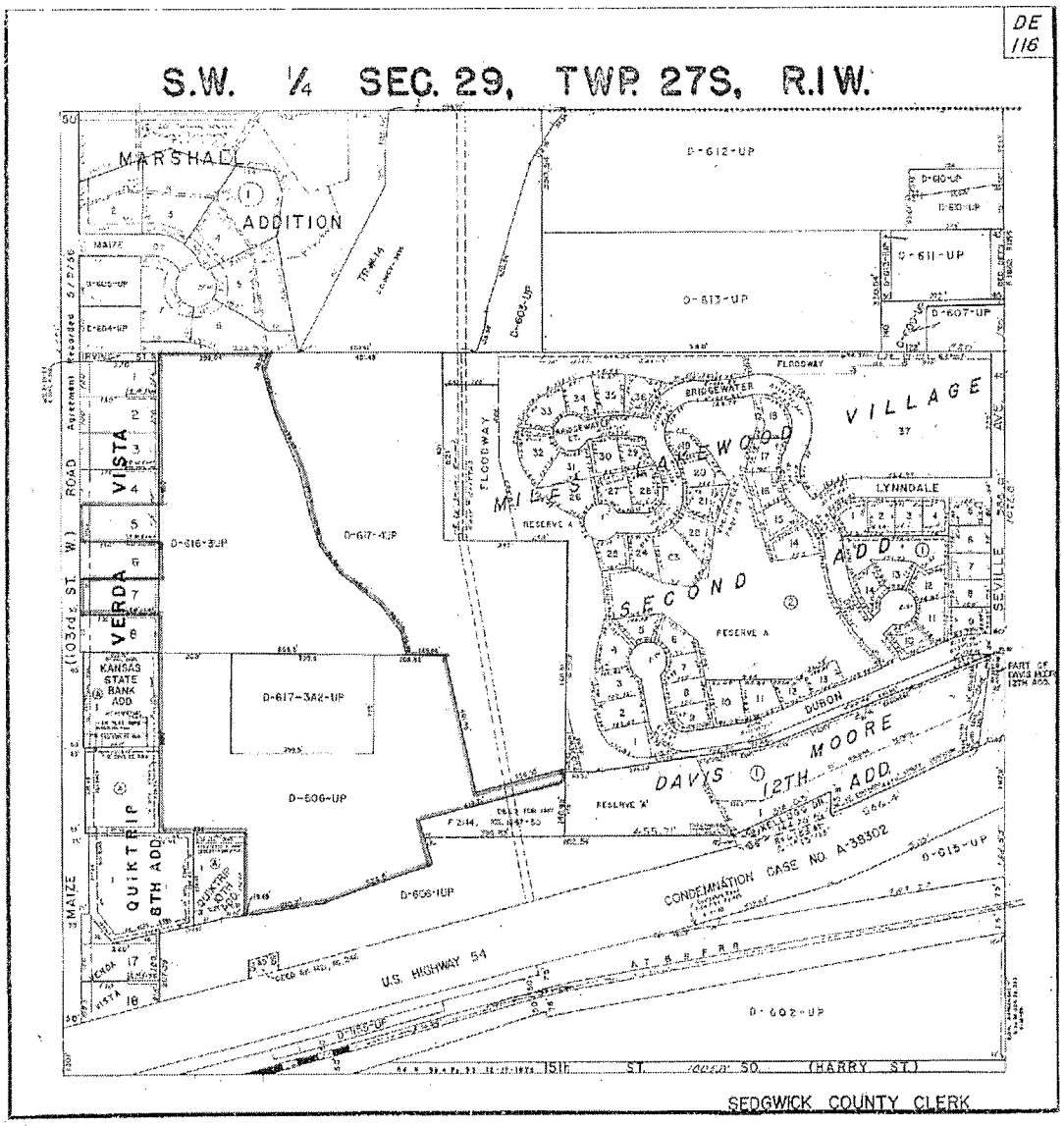
Capital Expenditures

Buildings, structures, and other facilities	$ 46,000,000
Drainage Improvements	$ 2,000,000
Site Improvements and Amenities	$ 2,000,000
Public Street Improvements	$ 1,000,000
Professional Design Services	$ 2,000,000

Annual Operational Expenditures

Including but not limited to, advertising, sales promotions, tourism promostions, economic development, etc.	$ 22,000,000
GRAND TOTAL .	$ 75,000,000

Exhibit D



CID DISTRICT BOUNDRY

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.

Name
Timothy R. Austin

Poe & Associates, Inc.
5940 E. Central; Suite 200
Wichita, KS 67208
Address

(316) 685-4114
Telephone Number

Sworn to and subscribed before me 24th day of June, 2010.

Deborah Jadlow
Deputy City Clerk

EXHIBIT D
CERTIFICATION OF EXPENDITURES

Request No. _____ Date:_____

Pursuant to the Development Agreement (the "Agreement") for the Bowllagio Community Improvement District between the City of Wichita, Kansas and the undersigned (the "Developer"), the Developer requests reimbursement and hereby states and certifies as follows:

1. The date and number of this request are as set forth above.

2. All terms in this request shall have and are used with the meanings specified in the Agreement.

3. The names of the persons, firms or corporations to whom the payments have been made and reimbursement is hereby requested, the amounts to be reimbursed and the general classification and description of the costs for which each obligation requested to be reimbursed hereby was incurred are as set forth on **Attachment I** hereto.

4. These costs have been incurred and are reasonable costs that are reimbursable under the Agreement.

5. Each item listed above has not previously reimbursed from the CID Sales Tax Fund and no part thereof has been included in any other Disbursement Request previously filed with the City.

[NAME OF DEVELOPER]

By: _____
Title: _____

Approved this ____ day of _____, 20__

CITY OF WICHITA

By: _____
City Representative

ATTACHMENT I
TO CERTIFICATION OF EXPENDITURE

REQUEST NO. _____ DATED_____ _

SCHEDULE OF PAYMENTS REQUESTED

Person, firm or corporation to whom payment was made	Amount to be reimbursed	General classification and description of the costs of issuance for which the Obligation to be reimbursed was incurred

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Petition to approve a Community Improvement District for Broadview Hotel Redevelopment (District VI)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Accept the petition and adopt the resolution setting a public hearing for consideration of the establishment of a Community Improvement District.

Background: In 2009, the Kansas Legislature enacted the Community Improvement District Act (CID Act), which allows property owners to petition cities or counties to create districts in which certain special taxes are imposed and the resulting revenue used to fund certain public and private improvements and the payment of certain ongoing operating costs, within the districts. In April of 2010 the City Council adopted a policy which addresses how the City will utilize the tool and outlined the approval process.

DSW Broadview, LLC, has submitted a petition for the creation of a Community Improvement District (CID) for the Drury Plaza Hotel Broadview on the northwest corner of Douglas Avenue and Waco Avenue and parking garage on the east side of Waco Avenue, north of Douglas. On August 24, 2010, the City Council authorized the Mayor to sign the petition, since the City is owner of record due to industrial revenue bond financing. The signed petition is submitted at this time for City Council approval.

Analysis: CID projects may be funded by either special assessment taxes on the real property within the CID or by a special retail sales tax of up to two percent (2%) on all taxable retail sales within the district, or both. Under the CID Act, CID tax revenues may be used to repay bonds; either full faith and credit (general obligation) bonds or special obligation (revenue) bonds, issued to finance eligible improvements; or the CID revenue may be passed through to developers to reimburse the cost of the improvements, or qualified operating costs, on a pay-as-you-go basis. The City CID Policy encourages the use of pay-as-you-go financing and allows the use of special obligation bonds, but does not permit the use of general obligation bonds. The maximum term of a CID is 22 years.

The developer plans to use CID financing to complete the rehabilitation and restoration the historic Broadview Hotel, riverfront adjacent to the hotel and parking garage on along Waco Avenue north of Douglas Avenue. CID financing is planned to be used for lobby and restaurant renovations, to add a new fitness center and indoor swimming pool, to construct an elevated walkway connecting the hotel to the parking garage and to make improvements to the garage, and other costs allowed by the CID Policy. The petitioned maximum amount of CID financing is $19,863,000. The proposed CID sales tax rate for this district is two percent (2%) which will be collected for up to 22 years and paid to reimburse eligible costs on a pay-as-you-go basis.

The City's CID Policy requires both a 100% petition and a public hearing for the establishment of a community improvement district. To establish a CID, the City Council must first adopt a resolution which states that the City Council is considering the establishment of the CID and sets a date for a public hearing on the matter. The resolution must then be published at least once each week for two consecutive weeks and be sent by certified mail to all owners of land within the proposed CID. Given this process, the earliest date a public hearing may be held for this project would be October 5, 2010. After closing the public hearing, the City Council may adopt an ordinance establishing the district.

Financial Considerations: The cost of mailing the Resolution to all owners of property located within the proposed district will be charged to Economic Development Fund and will be repaid with administrative service fees collected from the district. DSW Broadview, LLC has paid the $5,000 non-refundable application fee, as required by the City's CID Policy.

Since DSW has requested the use of pay-as-you-go financing, the City will not issue bonds for the CID project. CID sales tax revenue will be paid to the City by the Kansas Department of Revenue and then disbursed to DSW pursuant a development agreement. The City will withhold five percent (5%) of the CID revenues distributed by the State, after giving credit for the application fee, and disperse the balance of the CID revenue to the developer until the maximum amount identified in the petition ($19,863,000) has been reimbursed or the 22-year term has expired, whichever is earlier.

Goal Impact: Economic Vitality and Affordable Living and Core Area and Neighborhoods. The vitality of the downtown area and the viability of the Century II Convention Center are directly impacted by maintaining first-class hotels in the Core Area.

Legal Considerations: State Law allows Community Improvement Districts to be established by Ordinance following a public hearing. The form of the petition and resolution has been approved by the Law Department. The resolution includes a map and legal description of the proposed CID boundaries.

Recommendation/Action: It is recommended that the City Council accept the petition and adopt the resolution setting a public hearing on October 5, 2010 for consideration of the establishment of a Community Improvement District.

Attachments: Resolution and Petition

RECEIVED
AUG 2 4 '10
CITY CLERK OFFICE

COMMUNITY IMPROVEMENT DISTRICT 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 provided in **Exhibits A, B**, and **C,** attached hereto and incorporated herein,

IMPROVEMENT DISTRICT

do hereby petition pursuant to the provisions of K.S.A. 12-6a26 *et seq.*, as amended (the "**Act**"):

(a) **General Nature**: That the general nature of the proposed community improvement district ("**CID**") project, The Drury Plaza Hotel Broadview (**"Project"** or **"Hotel"**), is to rehabilitate and restore the historic Broadview Hotel, the riverfront area adjacent to the hotel, as well as the parking garage used by hotel guests, all of which are located within the following Revitalization Areas: Arena Neighborhood Redevelopment Plan, River Corridor Improvement Area and Downtown Revitalization Area. The Hotel's 205 guest rooms will be extensively renovated, the meeting rooms will be refurbished, and the lobby will be restored to its original historic beauty. The ballroom will be updated while preserving the historic mosaics by Blackbear Bosin. A swimming pool will be added in the upper portion of the Exhibition Hall, and stair towers and elevators will be built and installed on the north and west ends of the building. The City and Hotel developer, DSW Broadview, LLC ("DSWB"), are working together to extensively renovate the frontage along the Arkansas River ("**River**") into an attractive green space linking the Hotel and the River. The Parking Garage ("**Garage**") will be renovated to provide elevators, improve lighting, and construct an overhead walkway directly linking it to the Hotel, over Waco Street. While the Hotel and Garage are owned by the City of Wichita, all work on the Project is being performed by DSWB, which holds a long-term lease on the Hotel and exclusive management contract covering the Garage.

The anticipated cost of the Project, excluding acquisition of the Hotel which was accomplished in 2008, is $22,797,750.00. Preliminary work on the Project has already begun; but in order to complete the Project DSWB needs the support of the CID. With the CID, it is anticipated that the Project will be complete in Spring, 2011. The undersigned representatives of DSWB request the City of Wichita to assist the Project by providing community improvement financing in

accordance with City of Wichita policy and the Act to finance the construction, maintenance, and procurement of certain improvements, costs and services within the District, which may include, but are not limited to: land acquisition, infrastructure related items, streets, sidewalks, parking lots and facilities, buildings, facilities, tenant improvements, water management and drainage related items, landscaping, lighting, art, water features and other cultural amenities, and the City's financing costs (if any) as well as the City's administrative costs in establishing and maintaining the District.

(b) **Estimated Cost**: That the estimated cost of the Project is **Twenty Two Million Seven Hundred Ninety Seven Thousand Seven Hundred Fifty Dollars** ($22,797,750.00) of which the maximum CID eligible cost is Nineteen Million Eight Hundred Sixty Three Thousand Dollars ($19,863,000.00), exclusive of the cost of interest on borrowed money. See **Exhibit D**, attached hereto and incorporated herein, for a detailed budget.

(c) **Proposed Method of Financing**: That the proposed Project be financed through the use of a Special Sales Tax on a Pay-As-You-Go basis, as defined in the Act.

(d) **Proposed Amount of Sales Tax**: That the proposed amount of Community Improvement District sales tax shall be two percent (2%) for **22 years**, or such lesser number of years as may be required to produce revenues sufficient for the payment of the maximum CID eligible cost identified in (b), above.

(e) **Proposed Method and Amount of Assessment if any**: No special assessment is proposed.

(f) That a map and legal description of the proposed CID are attached hereto as **Exhibits A** (legal description of Hotel Property), **B** (legal description of Parking Garage), **C** (air rights easement over Waco Avenue), and **E** (map).

2) It is requested that the improvement hereby petitioned be made with notice and public hearing, pursuant to City policy.

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, and that the signers consent to any assessments to the extent described therein without regard to benefits conferred by the project.

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 the owners of 100% of the land area within the proposed district. The Governing Body is requested to proceed in the manner provided by statute and City policy.

[Signatures On Following Page]

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE

100% Owners of Proposed Improvement District

OWNER/LESSOR OF HOTEL:
CITY OF WICHITA, KANSAS,
a corporate body politic and political
subdivision of the State of Kansas

8/24, 2010

By Carl Brewer, Mayor

LESSEE OF HOTEL:
DSW BROADVIEW, LLC
A Kansas limited liability company

8-13, 2010

By Drury Southwest Inc., Member
Dennis J. Vollink, President

OWNER OF GARAGE:
CITY OF WICHITA, KANSAS,
a corporate body politic and political
subdivision of the State of Kansas

8/24, 2010

By Carl Brewer, Mayor

MANAGER OF GARAGE:
DSW BROADVIEW, LLC,
A Kansas limited liability company

8-13, 2010

By Drury Southwest Inc., Member
Dennis J. Vollink, President

ATTEST:

Name: Karen Sublett
City Clerk

(Corporate Seal)

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Appeared before me today, this 24th day of August, 2010, Carl Brewer, personally known to me and after first being sworn did state that he is the Mayor of the City of Wichita, State of Kansas, and that the seal affixed to the foregoing instrument is the official Seal of the City of Wichita, and that said instrument was signed and sealed on behalf of the City, and that the matters set forth herein are true and correct to the best of his and the City's knowledge, information and belief, and acknowledge that he executed the same on behalf of the City as its free act and deed.

Deborah A Tadlock
Notary Public

My Commission Expires: Notary Public State of Kansas
Deborah A Tadlock
My Appt Exp 7-15-12

STATE OF MISSOURI)
) ss:
CAPE GIRARDEAU COUNTY)

BE IT REMEMBERED, that on this 13th day of August, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dennis J. Vollink, President of DRURY SOUTHWEST, INC., who is personally known to me to be the same person who executed the foregoing instrument of writing, and duly acknowledged the execution of the same, by and for, and as the free act and deed of such corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

Notary Public

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JENNIFER S. KORNBLUM
My Commission Expires
May 25, 2014
Cape Girardeau County
Commission #10885005

My Commission Expires: 5-25-14

EXHIBIT A
LEGAL DESCRIPTION OF HOTEL PROPERTY

Beginning at the Southeast Corner of Lot 1, Holmes Addition to Wichita, Kansas; thence N 00°00'00" E (Assumed), along the West Right-of-Way of Waco Avenue, a distance of 307.08 feet to the South line of the former Missouri Pacific Railroad property, now owned by Wichita Festivals, Inc.; thence S 89°39'27" W, along the South line of said Railroad property, a distance of 174.49 feet; thence S 67°15'40" W, along said South line, a distance of 167.79 feet to the approximate location of the East Bank of the Arkansas River; thence S 11°26'35" E, along said East Bank, a distance of 223.57 feet; thence S 26°45'11" E continuing along said East Bank, a distance of 105.33 feet to the Southwest Corner of Lot 10, Holmes Addition to Wichita, Kansas; thence N 89°54'22" E, along the South line of said Addition, also being the north line of Douglas Avenue, a distance of 52.00 feet, thence N 73°54'33" E, along said north line, a distance of 43.57 feet; thence N 67°22'33" E, a distance of 155.60 feet to the Point of Beginning.

LESS AND EXCEPT THE FOLLOWING:

A tract of land located in the Southeast quarter of Section 20, Township 27 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, and in a part of Lot 10, Holmes Addition to Wichita, Kansas, described as follows:
Commencing at the Northwest corner of Waco and Douglas Avenue; thence on an assumed bearing of S 73°07'52" W a distance of 248.15 feet to the point of beginning, said point being the Southwest corner of said Lot 10 and on the East bank of the Arkansas River;
Thence N 11° 26 '35" W, along said East Bank a distance of 105.33 feet;
Thence N 11° 26'35" W, continuing along said East Bank, a distance of 223.57 feet;
Thence N 67°15' 40" E a distance of 34.75 feet to a curve to the left;
Thence along said curve to the left, an arc distance of 59.24 feet, said curve having a radius of 41.00 feet and a Chord Bearing of S 11 °36'13" E, and a chord distance of 54.22 feet to a curve to the right;
Thence along said curve to the right an arc distance of 94.87 feet, said curve to the right having a radius of 52.00 feet; a chord bearing of S 00°43'53" E, and a chord distance of 82.25 feet, to a curve to the left;
Thence along said curve to the left an arc distance of 51.31 feet, said curve having a radius of 27.00 feet, a chord bearing of S 02°54'16" E, and a chord distance of 43.93 feet;
Thence S 5° 20' 29" E a distance of 17.36 feet to a curve to the left;
Thence along said curve to the left an arc distance of 14.14 feet, said curve having a radius of 22.50 feet, a chord bearing of S 16°43'48" Wand a chord distance of 13.91 feet;
Thence N 90°00'00" E a distance of 7.00 feet to a curve to the left;
Thence along said curve to the left an arc distance of 14.85 feet, said curve having a radius of 15.50 feet, a chord bearing of S 29°17'52" E and a chord distance of 14.29 feet, to a curve to the right;
Thence along said curve to the right an arc distance of 95.84 feet, said curve to the right having a radius of 71.00 feet; a chord bearing of S 18°04'40" E, and a chord distance of 88.72 feet, to a curve to the left;
Thence along said curve to the left an arc distance of 32.07 feet, said curve having a radius of 23.00 feet, a chord bearing of S 19°20'57" E and a chord distance of 29.53 feet;
Thence S 89°54'22" W a distance of 16.38 feet to the point of beginning. Said tract contains 9,448.11 square feet or 0.22 acres, more or less.

EXHIBIT B

LEGAL DESCRIPTION OF PARKING GARAGE PROPERTY

Lots 14/ 16, 18 and the south 10 feet of Lot 20 on Waco Avenue; also the west 4.5 feet of Lots 13, 15 and 17/' and the west 4.5 feet of the south 10 feet of Lot 19/ on Wichita Street; also all of that part of a large Lot 4 described as follows: Beginning 149 feet north of the Northeast corner of the intersection of Douglas Avenue and Waco Avenue; thence north 137 feet more or less to the South line of alley vacated by Ordinances Nos. 1685 and 13-444; thence east 158.37 feet more or less to the West line of Webb Street; thence south 137 feet more or less to a point 149 feet north of the North line of Douglas Avenue; thence west to the place of beginning; also vacated alleys adjoining the above described property, described as follows:

Beginning at the Southwest corner of Lot 14 on Waco Avenue; thence east 158.37 feet more or less to the West line of Webb Street; thence south 32.48 feet more or less to the North line of large Lot 4; thence west 158.37 feet more or less to the East line of Waco Avenue; thence, north 32.4_ feet more or less to the place of beginning; also beginning at the Southeast corner of Lot 14, on Waco Avenue; thence north 152.08 feet more or less to a point 10 feet north of the Southeast corner of Lot 20, on Waco Avenue; thence east 20 feet more or less to the East line of alley vacated by Ordinance Nos. 8117 and 13-444; thence south 152.08 feet more or less to the Southwest corner of Lot 13 facing on Wichita Street; thence west 20 feet more or less to the point of beginning; all being in Waterman's Addition to Wichita in Sedgwick County, Kansas.

Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29013244
Receipt #: 1700787
Pages Recorded: 9
Cashier Initials: AL
Recording Fee: $40.0
Authorized By:

Date Recorded: 10/10/2008 4:17:57 PM

Grantor	WICHITA CITY OF
Grantee	HOLMES ADDITION
Type of Document	EASEMENTS - MISCELLANOUS
Recording Fees	$40.00
Mtg Reg Tax	$0.00
Total Amount	$40.00

Return Address
FIRST AMERICAN TITLE
434 N. MAIN
WICHITA , KS 67202

Exhibit C

AFTER RECORDING MAIL TO:
Drury Southwest Broadview, LLC
101 S. Farrar Drive
Cape Girardeau, Missouri 63701
Attn: Herbert J. Wedemeier

(Space left blank for recording purposes)

DECLARATION OF ELEVATED PEDESTRIAN WALKWAY EASEMENT

THIS DECLARATION OF ELEVATED PEDESTRIAN WALKWAY EASEMENT (this "***Declaration***") is made and entered into as of the 7 day of October, 2008 by the CITY OF WICHITA, KANSAS, a corporate body politic and political subdivision of the State of Kansas (the "***City***").

WITNESSETH

WHEREAS, the City owns that certain real property located at 400 West Douglas Avenue in the City of Wichita, County of Sedgwick, Kansas, more particularly described on Exhibit A attached hereto and made a part hereof (the "***Hotel Property***", the owner at any time of such Hotel Property being referred to herein as the "***Hotel Owner***") and the improvements thereon, which includes the building commonly known as The Broadview Hotel (the "***Hotel***").

WHEREAS, the City owns that certain real property located at 132 North Waco Street in the City of Wichita, County of Sedgwick, Kansas, more particularly described on Exhibit B attached hereto and made a part hereof (the "***Garage Property***", the owner at any time of such Garage Property being referred to herein as the "***Garage Owner***") and the improvements thereon, which includes a multi-level parking structure (the "***Garage***").

WHEREAS, the City owns that certain right-of-way commonly know as North Waco Street, depicted on Exhibit C attached hereto and made a part hereof (the "***Right-of-Way Property***", the owner at any time of such Right-of-Way Property being referred to herein as the "***Right-of-Way Owner***").

WHEREAS, the City and Drury Southwest, Inc., a Missouri corporation ("***Drury***"), entered into that certain Letter of Intent dated August 19, 2008, whereby the City, among other things, granted to Drury and its affiliates an option to construct an elevated, covered pedestrian walkway connecting the Hotel and the Garage.

WHEREAS, the City and DSW Broadview, LLC, a Missouri limited liability company and an affiliate of Drury ("***DSW***") entered into that certain Lease dated October 1, 2008 (the "***Hotel Lease***"), whereby the City leased the Hotel Property to DSW. The City has acknowledged that the

10.00

Debbie

Hotel Lease governs, among other things, the construction, maintenance, cleaning, lighting, heating (if any), insurance, tax, liens and safety issues with respect to the Hotel, and once constructed, the Walkway (as hereinafter defined). As the City has acknowledged that as part of the consideration for DSW to enter into the Hotel Lease, the City has agreed that so long as the City owns the Hotel Property, except as expressly contained herein, this Declaration cannot be amended or revoked except upon the filing of a written and duly executed (by the City and DSW) amendment, termination or release of easement, as applicable, in the Recorder of Deeds for Sedgwick County; provided, however, that in the event the Hotel Property is no longer owned by the City, any amendment, termination or release of easement need only be duly executed by DSW, or its successors and assigns.

WHEREAS, the City and DSW have also entered into that certain Parking Garage Operating Agreement dated October 7, 2008 (the "***Garage Agreement***"), whereby the City has contracted for DSW to operate the Garage.

WHEREAS, the Hotel Owner, Garage Owner and Right-of-Way Owner desire to grant for the benefit of themselves and their successors and assigns, an air rights easement for the construction, maintenance and use of an elevated pedestrian walkway (the "***Walkway***") linking the Hotel to the Garage.

NOW, THEREFORE, in consideration of the foregoing and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Hotel Owner, Garage Owner and Right-of-Way Owner, for themselves and their respective successors and assigns, state as follows:

1. Declaration of Easement. The Right-of-Way Owner, for itself as owner of the Right-of-Way Property and its successors and assigns, hereby grants and conveys to the Hotel Owner and the Garage Owner a perpetual exclusive air rights easement, as an appurtenance to the Hotel Property and the Garage Property, over the Right-of-Way Property for the construction and use of the Walkway connecting the Hotel to the Garage, commencing at an elevation over the Right-of-Way Property that is at least thirteen (13) feet above the grade of the Right-of-Way Property and the highest point of such Walkway being forty (40) feet above the grade of the Right-of-Way Property.

2. Consent to Attachment. The Hotel Owner and the Garage Owner hereby consent to the attachment of the Walkway to the Hotel and Garage, respectively, provided the manner of attachment shall be in accordance with good construction practice, in the manner customary for improvements of such type and so as not to impose an unreasonable load on the Hotel and Garage.

3. No Interference. The Hotel Owner, Right-of-Way Owner, and Garage Owner shall, to the extent practicable, take such steps as may be necessary to avoid interference with the normal operations of the Hotel and Garage and the invitees at the Hotel and Garage during construction of the Walkway and attachment of the Walkway to the Hotel and Garage. The Hotel Owner, Right-of-Way Owner, and Garage Owner shall comply with all applicable building codes and permitting processes.

4. Access. The Hotel Owner and Garage Owner shall have the right to adopt reasonable guidelines for the use of and access to the Walkway including, without limitation, the right to limit hours of operation and to limit use of the Walkway to hotel patrons and their guests.

5. Destruction. In the event the Walkway is destroyed by fire or other casualty, the Hotel Owner may rebuild the Walkway without any further consent, except such consents as may be required by a governmental authority.

6. Removal of Walkway. If the Hotel Owner should ever require the Walkway or any part thereof to be permanently removed, the Hotel Owner shall, at its cost and expense, cause the Walkway to be removed and the places where the Walkway connects to the Hotel and Garage to be restored to a condition suitable without the Walkway; provided, however, that during such time as the City is the Hotel Owner, its obligations in this regard shall be limited to the extent funds sufficient to pay such costs and expenses are furnished by the Tenant (as defined in the Hotel Lease) as provided under the Hotel Lease; provided, further,_that if the Hotel Lease is in existence at the time of such removal, DSW, or its successors and assigns, must first consent to the removal of the Walkway. Upon such removal and repair, this Declaration shall automatically terminate and become null and void.

7. Maintenance of Walkway. The Hotel Owner shall, at all times during the term of this Declaration, maintain the Walkway in good repair and condition, at its sole expense; provided, however, that during such time as the City is the Hotel Owner, its obligations in this regard shall be limited to the extent funds sufficient to pay such costs and expenses are furnished by the Tenant (as defined in the Hotel Lease) as provided under the Hotel Lease. The Garage Owner and Right-of-Way Owner hereby grant to the Hotel Owner a perpetual non-exclusive easement for access over, across, under and through the Garage Property and Right-of-Way Property, respectively, for the maintenance of the Walkway.

8. Benefits and Duration. The easement granted in this Declaration is perpetual and unless and until terminated in accordance with the express provision of this Declaration, shall run with the land and shall bind the Hotel Owner, the Garage Owner and the Right-of-Way Owner, and their respective successors and assigns in ownership, for so long as, and to the extent such persons or entities own any interest in the Hotel Property, the Garage Property and the Right-of-Way Property, as applicable.

9. No Merger. The fact that Hotel Owner, Garage Owner and Right-of-Way Owner are the same persons or entities, or may become the same persons or entities, shall not cause this Declaration and the easement granted herein to terminate by merger or other similar legal doctrine.

10. Indemnity. The Hotel Owner agrees to indemnify and hold harmless the Right-of-Way Owner from any and all claims resulting from the Hotel Owner's use and occupancy of the Walkway and the easement granted in this Declaration; provided, however, that during such time as the City is the Hotel Owner, its obligations in this regard shall be performed by the Tenant (as defined in the Hotel Lease) as provided under the Hotel Lease.

11. Governing Law. This Declaration shall be governed by the laws of the State of Kansas.

12. Enforceability. The unenforceability of any provision of this Declaration shall not render the remaining provisions hereof unenforceable or void.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the City has executed and delivered this Declaration as of the day and year first above written.

CITY OF WICHITA, KANSAS,
a corporate body politic and political
subdivision of the State of Kansas

By: _____
Name: Carl Brewer, Mayor

ATTEST:

_____ CMC

Name: MAYOR
City Clerk

(Corporate Seal)

STATE OF KANSAS)
)
COUNTY OF SEDGWICK)

Appeared before me today, this 7 day of October, 2008, Carl Brewer, personally known to me and after first being sworn did state that he is the Mayor of the City of Wichita, State of Kansas, and that the seal affixed to the foregoing instrument is the official Seal of the City of Wichita, and that said instrument was signed and sealed on behalf of the City, and that the matters set forth herein are true and correct to the best of his and the City's knowledge, information and belief, and acknowledge that he executed the same on behalf of the City as its free act and deed.

_____
Notary Public

My Commission Expires: 12-19-2010

NOTARY PUBLIC - State of Kansas
JANIS EDWARDS
My Appt Expires 12-19-2010

EXHIBIT A

[Description of Hotel Property]

Beginning at the Southeast Corner of Lot 1, Holmes Addition to Wichita, Kansas; thence N 00°00'00" E (Assumed), along the West Right-of-Way of Waco Avenue, a distance of 307.08 feet to the South line of the former Missouri Pacific Railroad property, now owned by Wichita Festivals, Inc.; thence S 89°39'27" W, along the South line of said Railroad property, a distance of 174.49 feet; thence S 67°15'40" W, along said South line, a distance of 167.79 feet to the approximate location of the East Bank of the Arkansas River; thence S 11°26'35" E, along said East Bank, a distance of 223.57 feet; thence S 26°45'11" E continuing along said East Bank, a distance of 105.33 feet to the Southwest Corner of Lot 10, Holmes Addition to Wichita, Kansas; thence N 89°54'22" E, along the South line of said Addition, also being the north line of Douglas Avenue, a distance of 52.00 feet, thence N 73°54'33" E, along said north line, a distance of 43.57 feet; thence N 67°22'33" E, a distance of 155.60 feet to the Point of Beginning.

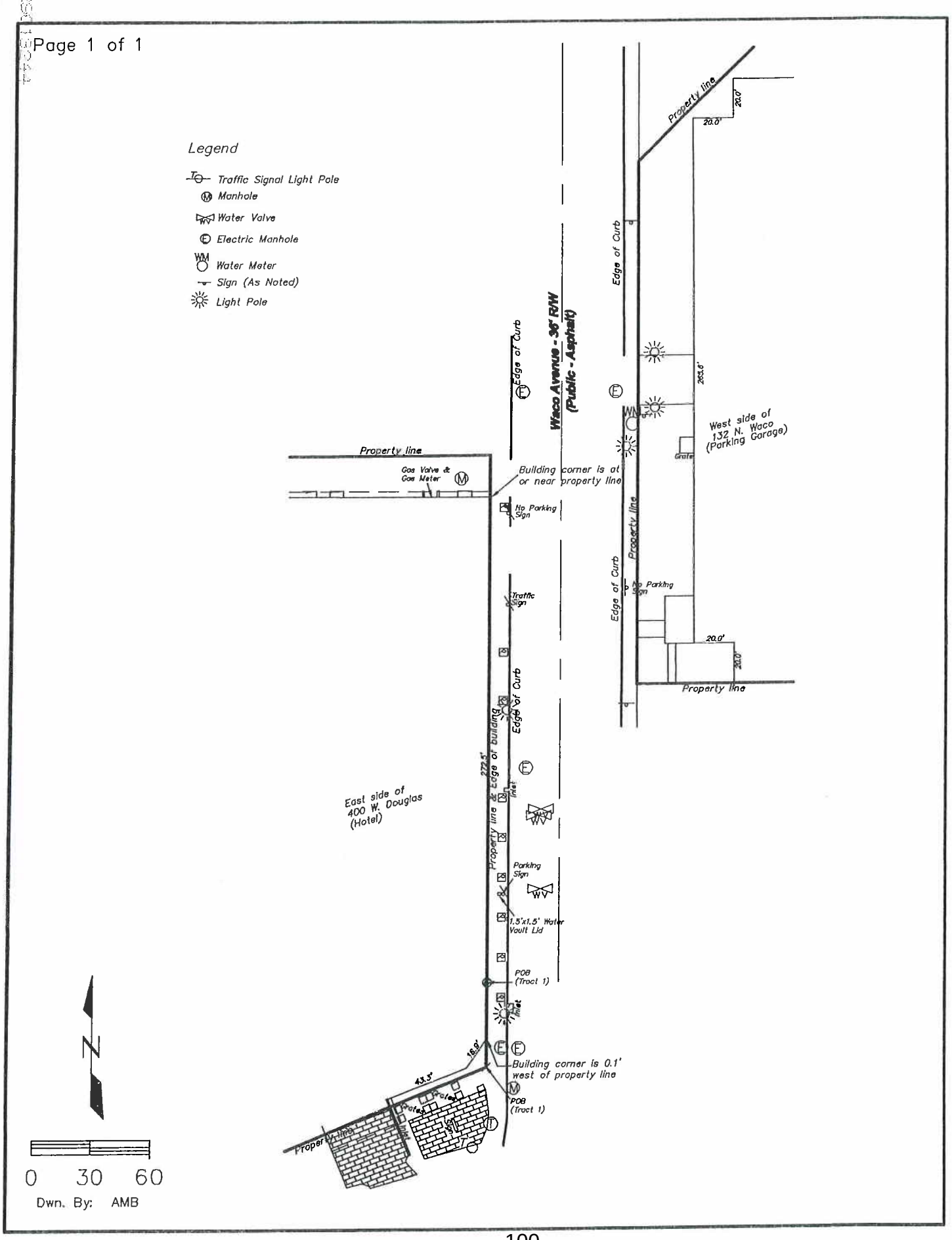
EXHIBIT B

[Description of Garage Property]

Beginning at the Northwest corner of Engstrom Second Addition to Wichita, Kansas, thence N 00°00'00" E along the West line of said Addition, said line also being the East of Waco Avenue, a distance of 264.30 feet; thence N 45°20'52" E, along the South Right-of-Way line of the former Missouri Pacific Railroad Right-of-Way, a distance of 81.98 feet; thence N 89°46'54" E, a distance of 99.88 feet; thence S 00°38'11" W, a distance of 152.52 feet; thence N 89°53'39" E, a distance of 1.65; thence S 00°00'05" E, along the West line of Civic Center Place, a distance of 169.48 feet to the Northeast corner of said Addition; thence S 89°53'39" W along the North line of said Addition, a distance of 158.15 feet to the Point of Beginning.

EXHIBIT C

[Depiction of Right-of-Way]


Legend
Traffic Signal Light Pole
Manhole
Water Valve
Electric Manhole
Water Meter
Sign (As Noted)
Light Pole
Waco Avenue - 36' R/W
(Public - Asphalt)
Edge of Curb
Property line
20.0'
265.6'
West side of
132 N. Waco
(Parking Garage)
Grate
Gas Valve &
Gas Meter
Building corner is at
or near property line
No Parking
Sign
Traffic
Sign
272.5'
Edge of building
Inlet
East side of
400 W. Douglas
(Hotel)
Parking
Sign
1.5'x1.5' Water
Vault Lid
POB
(Tract 1)
16.9'
43.3'
Building corner is 0.1'
west of property line
N
0 30 60
Dwn. By: AMB

DRURY SOUTHWEST PRELIMINARY COST ESTIMATE
HISTORICAL RENOVATION - DRURY PLAZA - WICHITA
1922 BROADVIEW HOTEL - DOUGLAS AVE & WACO STREET
Hotel & 470 Car Parking Garage

DATE: 03-Aug-10 DV
ESTIMATE #11
FILE: PRELIMINARY ESTIM #11 - Aug 10

			Basement	20,296	sf
King	78	$169	Meeting Rooms =	30,000	sf (only Main Ball Room)
Double Queens	78		Lobby Floor =	20,296	sf
Loft Suite	4		Building SF 2 - 7 =	17,000	sf per floor
Suites	40		Building SF 8	18,000	sf
Total Rental Unit	**200**		Total SF	190,592	sf total
Meeting Rooms	4		SF/RU =	953	sf/RU
Total Units	204		Existing Garage =	140,000	sf +-
				470	PS

ITEM	$/UNIT	# UNITS	UNIT	TOTAL	SUB-TOTAL
DEVELOPMENT COST					
PLANS & ENGR	$18,000,000	2.50%		$450,000	
SURVEYS & SITE ENGR	$75,000	1.00	LS	$75,000	
LEGAL - BONDS	$100,000	1.00	LS	$100,000	
SITE DEMO - POOL ETC	40,000	1	LS	$40,000	
LANDSCAPE TO RIVER	$175,000	1	LS	$175,000	
NEW INTERIOR POOL	$300,000	1	LS	$300,000	
UTILITY UPGRADE - ELECTRIC	$50,000	3	EA	$150,000	
CITY PERMITS	$65,000	1	CITY	$65,000	
EXTERIOR FAÇADE REPAIR	$2.00	65,208	SF	$130,000	
HARDSCAPE RIVER	$225,000	1	LS	$225,000	
FENCING & GATES	$50	250	LF	$13,000	
SIDEWALKS AND OFF SITE	$3.50	5000	SF	$18,000	
Canopy & Drop Off	$50	2500	SF	$125,000	
Bridge to Garage - see garage	$1	0	sf	$0	
LIGHTING ELECTRIC	$2,500	10	EA	$25,000	
SUBTOTAL	**$9,455**	200	RU		**$1,891,000**
BUILDING COST 5' OUT					
Demolition	$1,000	200	RU	$200,000	
Demolition - public areas	$8	20,000	sf	$160,000	
Bath Room - New	$5,000	200	RU	$1,000,000	
HVAC - New	$5,000	200	RU	$1,000,000	
Plumbing - 50% New	$6,500	200	RU	$1,300,000	
Electric - Data & Phone	$5,500	200	RU	$1,100,000	
Interior Partitions & Finishes	$10	140,296	sf	$1,403,000	
Public Areas - Lobby	$75	20,296	SF	$1,522,000	
Meeting Rooms	$25	30,000	SF	$750,000	
New Elevators	$34	22,000	stops	$748,000	
Kitchen - Restaurant - RI	$25	2,000	RU	$50,000	
Addition to Meeting Rooms	$125	3,000	RU	$375,000	
Electric - Public Area	$50,000	1	EA	$50,000	
New Stairwells	$250,000	2	EA	$500,000	
Contingency - Bldg & Dev	$12,049,000	13.00%	%	$1,566,000	
SUBTOTAL	**$58,620**	200	RU		**$11,724,000**
	$61.51		per sf		
F & F AND LINEN COST, TV ETC					
Kings	$11,000	78	RU	$858,000	
Double Queens	$11,000	78	RU	$858,000	
Loft Suites & Suites	$15,000	44	RU	$660,000	
Meeting Rooms	$20,000	4	RU	$80,000	
Signage - Roof & Blade Sign	$100,000	1	LS	$100,000	
Contingency	$2,500,000	10.00%	%	$250,000	
General Equipment	$125,000	1	LS	$125,000	
SUBTOTAL	**$14,655**	$200	RU		**$2,931,000**
	$15.38		per sf		
PRE-OPENING COST	**$400**	200	RU	$80,000	**$80,000**

SUB-TOTAL	**$83,130**	200	RU			**$16,626,000**

ITEM	$/UNIT	# UNITS	UNIT	TOTAL	SUB-TOTAL
GARAGE RENOVATION					
Bridge to Garage	$1	300,000	sf	$300,000	
Stair & Metal Repair	$15	2,000	sf	$30,000	
Garage Repair - concrete - joints	$0.50	75,000	sf	$38,000	
Electric	$10,000	3	FLR	$30,000	
Elevator	$22,000	3	FLR	$66,000	
Elevator Shaft & Pit	$10,000	3	FLR	$30,000	
Façade Repair	$1	25,000	sf	$25,000	
Gate, Security & Money Collector	$1	180,000	LS	$180,000	
SUBTOTAL	**$3,495**	$200	RU		**$699,000**
	$75	400	PS		
	$4.99	$140,000	per sf		
SUB-TOTAL	**$86,625**	200	RU		**$17,325,000**
DSW DIRECT OVERHEAD	$17,325,000	8.00%		$1,386,000	**$1,386,000**
Contractor Profit & Dev Fee	$17,325,000	15.00%		$2,598,750	**$2,598,750**
	$6,930	200	RU		
SUB-TOTAL	**$106,549**	200	RU		**$21,309,750**
DEVELOPER OVERHEAD -	$21,309,750	0.00%	RU		$0
SUB-TOTAL	**$106,549**	200	RU		**$21,309,750**
ADDITIONAL COSTS					
LOAN CLOSING / Realtor	$0	1	LS	$0	
Land Trade	$30,000	1	LS	$30,000	
LAND - first purchase	$6,352,000	1	ea	$6,352,000	
Interim financing - 6 months	$16,000,000	5.00%		$336,000	
SUB TOTAL	**$33,590**	200	RU		**$6,718,000**
	$35.25		per sf		
Total Hotel & Garage with Lanc	**$140,139**	**200**	**RU**		**$28,027,750**
Restaurant Infrastructure	**$105**	10000	sf	$1,050,000	**$1,050,000**
Adjacent Land Purchase - City Purch	**In Negotiation**			$0	**$0**
Demolition of adjacent Building	**$4**	8120	sf	$32,000	**$32,000**
New Combined Drive Construction	**$10**	4000	sf	$40,000	**$40,000**
Grand Total - Purchase of Adjacent Land NIC					**$29,149,750**

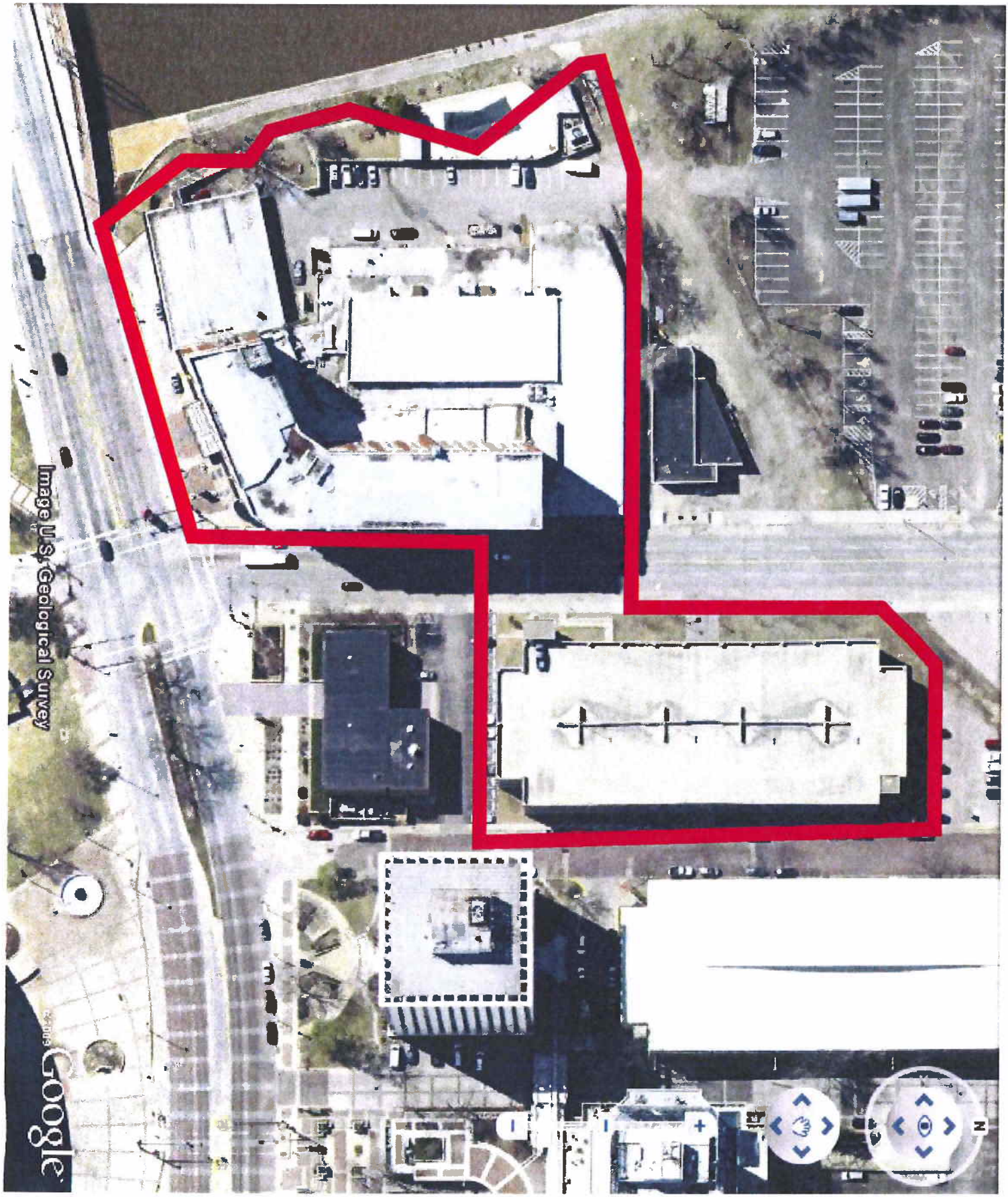


Image U.S. Geological Survey
Google

028001

Published in the Wichita Eagle September 17 and September 24, 2010

RESOLUTION NO. 10-233

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR NOTICE OF A PUBLIC HEARING CONCERNING ADVISABILITY OF THE CREATION OF A COMMUNITY IMPROVEMENT DISTRICT WITHIN THE CITY AND A PROPOSAL TO LEVY A COMMUNITY IMPROVEMENT DISTRICT SALES TAX PURSUANT TO K.S.A. 12-6a26 *ET SEQ.*, AS MAY BE AMENDED.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq*., as amended (the "Act"), the City of Wichita, Kansas (the "City"), is authorized to create a community improvement district as provided in the Act to provide for the acquisition, improvement, construction, demolition, removal, renovation, reconstruction, restoration, replacement, repair, furnishing and equipping buildings, structures, facilities, sidewalks, roads, parking lots, traffic signs and signals, utilities, pedestrian amenities, drainage, water, storm and sewer systems, underground gas, heating and electrical services and extensions, water mains and extensions, site improvements, street lights, lighting, street light fixtures, benches, awnings, canopies, walls, trees, landscapes and other cultural amenities (collectively, the "CID Projects" or each a "CID Project"); and

WHEREAS, upon proper petition, the Act further authorizes the City, in order to pay the costs of any project which is a CID Project, to impose a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services within a community improvement district in any increment of .10% or .25% not to exceed 2% (a "CID Sales Tax") and to reimburse the costs of the such project pursuant to pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such community improvement district sales tax; and

WHEREAS, a petition (the "Petition") has been filed with the City Clerk of the City proposing the creation of a community improvement district pursuant to the Act (the Broadview Hotel CID"), the completion of a project relating thereto as more particularly described on Exhibit A attached hereto (the "Project"), and the imposition of a CID Sales Tax in order to pay the costs of the Project; and

WHEREAS, the Petition was signed by the owners of all of the land area within the proposed Broadview Hotel CID; and

WHEREAS, the proposed Broadview Hotel CID is located at the northwest corner of Douglas and Waco Avenues and the east side of Waco Avenue within the City; and

WHEREAS, the Petition requests imposition of a two percent (2%) CID Sales Tax within the Broadview Hotel CID; and

WHEREAS, the Act provides that prior to creating any community improvement district, the City shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district, authorizing a CID Project therein and levying a CID Sales Tax within such district, and shall give notice of said public hearing in accordance with the Act;

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

1. Notice is hereby given that a public hearing to consider the advisability of the creation by the City of the Broadview Hotel CID and the imposition by the City of a two percent (2%) CID Sales Tax within the Broadview Hotel CID shall be held on October 5, 2010, beginning at 9:00 a.m. or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

2. The general nature of the proposed Project to be constructed within the proposed Broadview Hotel CID is set forth on **Exhibit A** attached hereto and incorporated by reference herein.

3. The estimated cost of the Project within the proposed Broadview Hotel CID is $22,797,750.

4. The Project within the proposed Broadview Hotel CID is proposed to be financed on a pay-as-you-go basis from revenues received from the imposition of a two percent (2%) CID Sales Tax up to a maximum amount of $22,797,750 within the proposed Broadview Hotel CID.

5. A legal description of the proposed Broadview Hotel CID is set forth in **Exhibit B** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Broadview Hotel CID is attached hereto as **Exhibit C** and incorporated herein by reference.

6. The City Clerk shall give notice of the public hearing in accordance with the provisions of the Act by publishing this resolution at least once each week for two consecutive weeks in the newspaper and sending this resolution by certified mail to all owners. The second publication of this resolution shall occur at least seven days prior to the date of hearing and the certified mailed notice shall be sent at least ten days prior to the date of hearing.

ADOPTED by the Governing Body this September 14, 2010.

APPROVED and **SIGNED** by the Mayor this September 14, 2010.

CITY OF WICHITA, KANSAS

By:_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, City Attorney

EXHIBIT A

PROJECT

General Nature: That the general nature of the proposed community improvement district ("CID") project, The Drury Plaza Hotel Broadview ("Project" or "Hotel"), is to rehabilitate and restore the historic Broadview Hotel, the riverfront area adjacent to the hotel, as well as the parking garage used by hotel guests, all of which are located within the following Revitalization
Areas: Arena Neighborhood Redevelopment Plan, River Corridor Improvement Area and Downtown Revitalization Area. The Hotel's 205 guest rooms will be extensively renovated, the meeting rooms will be refurbished, and the lobby will be restored to its original historic beauty. The ballroom will be updated while preserving the historic mosaics by Blackbear Bosin. A swimming pool will be added in the upper portion of the Exhibition Hall, and stair towers and elevators will be built and installed on the north and west ends of the building. The City and Hotel developer, DSW Broadview, LLC ("DSWB"), are working together to extensively renovate the frontage along the Arkansas River ("River") into an attractive green space linking the Hotel and the River. The Parking Garage ("Garage") will be renovated to provide elevators, improve lighting, and construct an overhead walkway directly linking it to the Hotel, over Waco Street. While the Hotel and Garage are owned by the City of Wichita, all work on the Project is being performed by DSWB, which holds a long-term lease on the Hotel and exclusive management contract covering the Garage.

EXHIBIT B
LEGAL DESCRIPTION OF HOTEL PROPERTY

Beginning at the Southeast Corner of Lot 1, Holmes Addition to Wichita, Kansas; thence N 00°00’00” E (Assumed), along the West Right-of-Way of Waco Avenue, a distance of 307.08 feet to the South line of the former Missouri Pacific Railroad property, now owned by Wichita Festivals, Inc.; thence S 89°39’27” W, along the South line of said Railroad property, a distance of 174.49 feet; thence S 67°15’40” W, along said South line, a distance of 167.79 feet to the approximate location of the East Bank of the Arkansas River; thence S 11°26’35” E, along said East Bank, a distance of 223.57 feet; thence S 26°45’11” E continuing along said East Bank, a distance of 105.33 feet to the Southwest Corner of Lot 10, Holmes Addition to Wichita, Kansas; thence N 89°54’22” E, along the South line of said Addition, also being the north line of Douglas Avenue, a distance of 52.00 feet, thence N 73°54’33” E, along said north line, a distance of 43.57 feet; thence N 67°22’33” E, a distance of 155.60 feet to the Point of Beginning.

LESS AND EXCEPT THE FOLLOWING:

A tract of land located in the Southeast quarter of Section 20, Township 27 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, and in a part of Lot 10, Holmes Addition to Wichita, Kansas, described as follows:
Commencing at the Northwest corner of Waco and Douglas Avenue; thence on an assumed bearing of S 73°07’52” W a distance of 248.15 feet to the point of beginning, said point being the Southwest corner of said Lot 10 and on the East bank of the Arkansas River;
Thence N 11° 26 '35" W, along said East Bank a distance of 105.33 feet;
Thence N 11° 26’35” W, continuing along said East Bank, a distance of 223.57 feet;
Thence N 67°15' 40" E a distance of 34.75 feet to a curve to the left;
Thence along said curve to the left, an arc distance of 59.24 feet, said curve having a radius of 41.00 feet and a Chord Bearing of S 11 °36'13" E, and a chord distance of 54.22 feet to a curve to the right;
Thence along said curve to the right an arc distance of 94.87 feet, said curve to the right having a radius of 52.00 feet; a chord bearing of S 00°43'53" E, and a chord distance of 82.25 feet, to a curve to the left;
Thence along said curve to the left an arc distance of 51.31 feet, said curve having a radius of 27.00 feet, a chord bearing of S 02°54'16" E, and a chord distance of 43.93 feet;
Thence S 5° 20' 29" E a distance of 17.36 feet to a curve to the left;
Thence along said curve to the left an arc distance of 14.14 feet, said curve having a radius of 22.50 feet, a chord bearing of S 16°43'48" Wand a chord distance of 13.91 feet;
Thence N 90°00'00" E a distance of 7.00 feet to a curve to the left;
Thence along said curve to the left an arc distance of 14.85 feet, said curve having a radius of 15.50 feet, a chord bearing of S 29°17'52" E and a chord distance of 14.29 feet, to a curve to the right;
Thence along said curve to the right an arc distance of 95.84 feet, said curve to the right having a radius of 71.00 feet; a chord bearing of S 18°04'40" E, and a chord distance of 88.72 feet, to a curve to the left;
Thence along said curve to the left an arc distance of 32.07 feet, said curve having a radius of 23.00 feet, a chord bearing of S 19°20'57" E and a chord distance of 29.53 feet;
Thence S 89°54'22" W a distance of 16.38 feet to the point of beginning. Said tract contains 9,448.11 square feet or 0.22 acres, more or less.

LEGAL DESCRIPTION OF PARKING GARAGE PROPERTY

Lots 14/ 16, 18 and the south 10 feet of Lot 20 on Waco Avenue; also the west 4.5 feet of Lots 13, 15 and 17/’ and the west 4.5 feet of the south 10 feet of Lot 19/ on Wichita Street; also all of that part of a large Lot 4 described as follows: Beginning 149 feet north of the Northeast corner of the intersection of

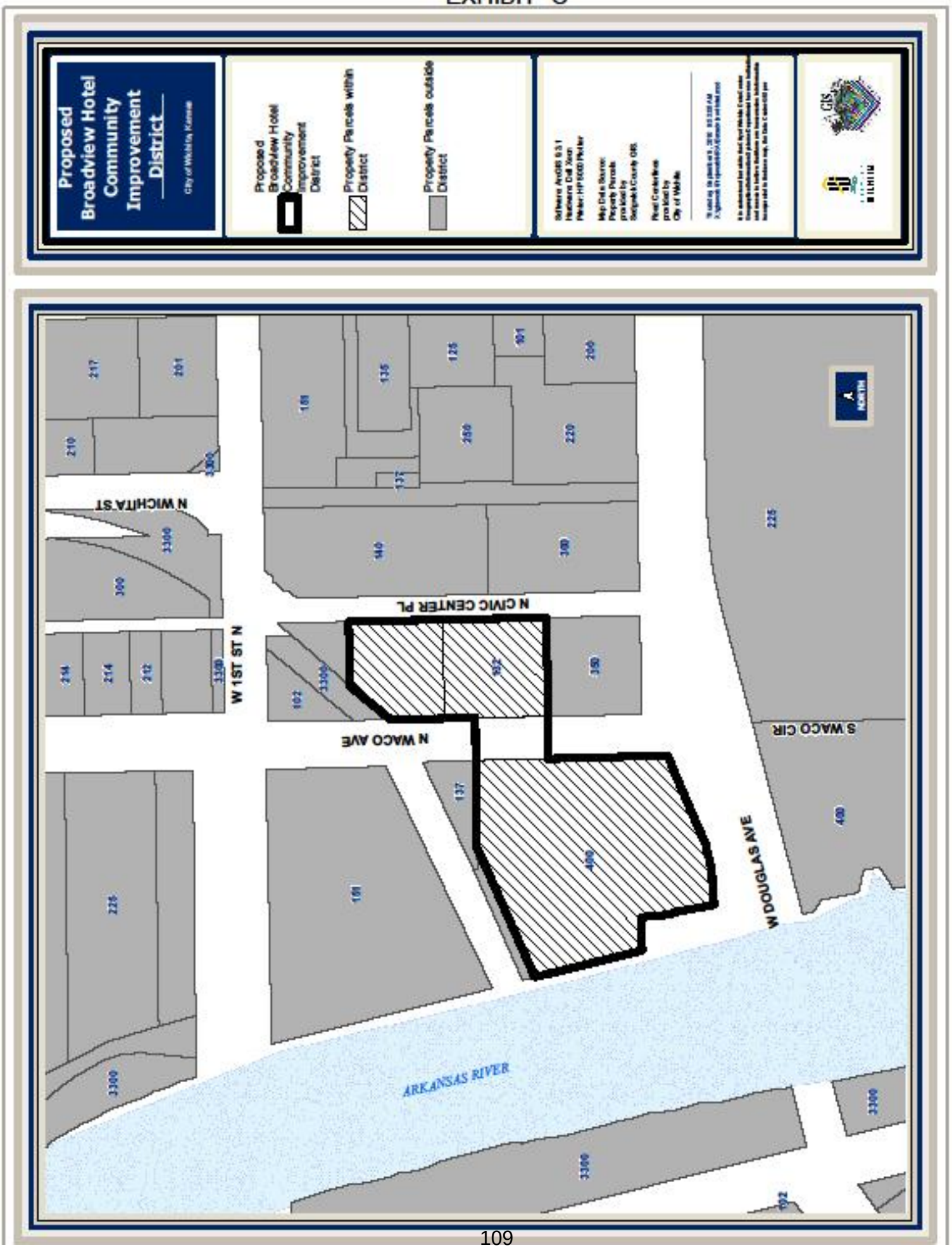
Douglas Avenue and Waco Avenue; thence north 137 feet more or less to the South line of alley vacated by Ordinances Nos. 1685 and 13-444; thence east 158.37 feet more or less to the West line of Webb Street; thence south 137 feet more or less to a point 149 feet north of the North line of Douglas Avenue; thence west to the place of beginning; also vacated alleys adjoining the above described property, described as follows:

Beginning at the Southwest corner of Lot 14 on Waco Avenue; thence east 158.37 feet more or less to the West line of Webb Street; thence south 32.48 feet more or less to the North line of large Lot 4; thence west 158.37 feet more or less to the East line of Waco Avenue; thence, north 32.4_ feet more or less to the place of beginning; also beginning at the Southeast corner of Lot 14, on Waco Avenue; thence north 152.08 feet more or less to a point 10 feet north of the Southeast corner of Lot 20, on Waco Avenue; thence east 20 feet more or less to the East line of alley vacated by Ordinance Nos. 8117 and 13-444; thence south 152.08 feet more or less to the Southwest corner of Lot 13 facing on Wichita Street; thence west 20 feet more or less to the point of beginning; all being in Waterman's Addition to Wichita in Sedgwick County, Kansas.

LEGAL DESCRIPTION OF OVERHEAD WALKWAY

The walkway and easement rights described as a perpetual exclusive air rights easement, as an appurtenance to the Hotel Property and the Parking Garage Property, over the Right-of-Way Property for the construction and use of the Walkway connecting the Hotel to the Garage, commencing at an elevation over the Right-of-Way Property that is at least thirteen (13) feet above the grade of the Right-of-Way Property and the highest point of such Walkway being forty (40) feet above the grade of the Right-of-Way Property which is the subject of that certain elevated walkway easement dated October 7, 2008 and filed of record at 29013244 in the records of the Sedgwick County Register of Deeds.

EXHIBIT "C"


Proposed Broadview Hotel Community Improvement District
Proposed Broadview Hotel Community Improvement District
Property Parcels within District
Property Parcels outside District
N WICHITA ST
W 1ST ST N
N CIVIC CENTER PL
N WACO AVE
S WACO CIR
W DOUGLAS AVE
ARKANSAS RIVER
NORTH

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures (District I)

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolution.

Background: On July 13, 2010, a report was submitted with respect to the dangerous and unsafe conditions on the properties listed below. The Council adopted a resolution providing for a public hearing to be held on the condemnation actions at 9:30 a.m. or soon thereafter, on September 14, 2010.

Analysis: On June 7, 2010, the Board of Code Standards and Appeals (BCSA) held hearings on the properties listed below

Property Address	Council District
a. 1328 North Lorraine	I
b. 1220 North Piatt	I
c. 1036 North Poplar	I
d. 1508 North Grove (detached garage in rear)	I
e. 1528 North Erie	I

Detailed information/analysis concerning these properties are included in the attachments.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional $500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on July 16, 2010 and July 23, 2010. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings to be dangerous and unsafe structures, and accept the BCSA recommended actions to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair any structures would be contingent on the following: (1) All taxes have been paid to date as of September 14, 2010; (2) the structures have been secured as of September 14, 2010, and will continue to be kept secured; and (3) the premises are mowed and free of debris as of September 14, 2010, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

Attachments: Case summary, summary and follow-up history.

DATE: August 24, 2010

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1328 N. LORRAINE

LEGAL DESCRIPTION: LOTS 26 AND 28, ON LORRAINE AVENUE, FAIRMOUNT PARK ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 27 x 26 feet in size. Vacant for at least 4 years, this structure has been damaged by fire. It has missing and fire damaged siding; deteriorated front and rear porches; and the wood trim and framing members are rotted and fire damaged.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 24, 2010

BCSA GROUP # 3

ADDRESS: 1328 N. LORRAINE

ACTIVE FIELD FILE STARTED: September 12, 2006

NOTICE(S) ISSUED: Since September 12, 2006, two notice of improvements and numerous violation notices have been issued. In December 2007, an Environmental case was initiated on this property resulting in City of Wichita contractor abatement. In June 2008 and August 2009 Neighborhood Nuisance cases were initiated resulting in City of Wichita contractor abatements. In October 2008 and July 2009 Tall Grass and Weeds cases were initiated resulting in City of Wichita contractor abatements. Central Inspection staff completed an emergency board-up on December 7, 2007, at a cost of $209.54 and on March 29, 2008, at a cost of $153.08.

PRE-CONDEMNATION LETTER: September 23, 2009

TAX INFORMATION: The 2006, 2007, 2008 and 2009 taxes are delinquent in the amount of $3,226.27, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2009 special assessment for weed cutting in the amount of $243.46 and 2010 special assessment for weed cutting and lot cleanup in the amount of $667.37.

PREMISE CONDITIONS: Tall grass and weeds.

VACANT NEGLECTED BUILDING REPORT: Pending

NUISANCE ABATEMENT REPORT: Lot cleanup on March 13, 2008, in the amount of $749.01, weed mowing on October 30, 2008, in the amount of $120.24, weed mowing on August 12, 2009, in the amount of $120.24, lot cleanup on October 27, 2009, in the amount $471.55 and weed mowing on July 22, 2010, in the amount of $114.99. Invoice pending for weed mowing on August 16, 2010, in the amount of $123.00.

POLICE REPORT: From April 1991 through February 2007 there have been twelve reported police incidents at this location including battery, destruction to auto, other destruction of property, miscellaneous report (3), mental cases (2), suspicious character other, draw deadly weapon, embezzled auto and non injury accident under $1000.00

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing no representative was present on behalf of this property.

Ms. Legge advised the Board that she had received a phone call from the property owner that morning and was told that the property was going into foreclosure.

Board Member Harder made a motion to send the property to the City Council with a recommendation of condemnation, with ten days to begin demolition and ten days to complete razing the structure. Board Member Coonrod seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: August 24, 2010

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1220 N. PIATT

LEGAL DESCRIPTION: LOTS 79, 81 AND 83, ON GUY, NOW PLATT AVENUE, ELEVENTH STREET ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 33 x 31 feet in size. Vacant and open, this structure has a cracking concrete block foundation; rotted and missing hardyboard siding; sagging composition roof with holes and missing shingles; deteriorated front and rear porches; and the wood trim and framing members are rotted and missing.

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 open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.

D. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 24, 2010

BCSA GROUP # 3

ADDRESS: 1220 N. PIATT

ACTIVE FIELD FILE STARTED: March 6, 2009

NOTICE(S) ISSUED: Since March 6, 2009, a notice of improvement and several violation notices have been issued. In February 2009, a Neighborhood Nuisance case was initiated on this property, resulting in the issuance of a Uniform Criminal Complaint and it has been the subject of Neighborhood Court.

PRE-CONDEMNATION LETTER: August 25, 2009

TAX INFORMATION: The 2008 and 2009 taxes are delinquent in the amount of $694.77, which includes interest.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Tall grass and weeds.

VACANT NEGLECTED BUILDING REPORT: Active case

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From May 1990 through December 2005 there have been six reported police incidents at this location including aggravated assault stabbing cutting, lost miscellaneous property (2), larceny b auto accessories, burglary residence and sudden death witnessed.

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing there was no representative present at the hearing.

Board Member Youle made a motion to refer the property to the City Council for condemnation, with ten days to initiate wrecking of the structure and ten days to complete the removal. Board Member Harder seconded the motion. The motion passed without opposition.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: August 24, 2010

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1036 N. POPLAR

LEGAL DESCRIPTION: LOTS 33 AND 35, BLOCK 2, ESTERBROOK PARK ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 25 x 42 feet in size. Vacant for at least 10 years, this structure has shifting and cracking concrete block basement walls; damaged steel siding; deteriorated front and rear porches; and the wood trim and framing members are rotted.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 24, 2010

BCSA GROUP # 3

ADDRESS: 1036 N. POPLAR

ACTIVE FIELD FILE STARTED: January 23, 1992

NOTICE(S) ISSUED: Since January 23, 1992, several notice of improvements and numerous violation notices have been issued. In June 2003, June 2005, August 2005 and April 2006 Environmental cases were initiated on this property resulting in owner compliance. In September 2006 an Environmental case was initiated resulting in City of Wichita contractor abatement. In June 2008 and June 2009 Neighborhood Nuisance cases were initiated resulting in City of Wichita contractor abatements. In May 2009 and July 2009 Tall Grass and Weeds cases were initiated resulting in City of Wichita contractor abatements. It should be noted that on May 13, 2010, a Tall Grass and Weeds case was started on this property and remains open.

PRE-CONDEMNATION LETTER: June 18, 2009

TAX INFORMATION: The 2008 and 2009 taxes are delinquent in the amount of $1,738.31, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2009 special assessment for weed cutting and lot cleanup in the amount of $1,198.80, which includes interest and 2010 special assessment for weed cutting and lot cleanup in the amount of $1,936.24 for weed cutting and lot cleanup, which includes interest.

PREMISE CONDITIONS: Tall grass and weeds.

VACANT NEGLECTED BUILDING REPORT: Pending

NUISANCE ABATEMENT REPORT: Lot cleanup on February 2, 2009, in the amount of $948.24, weed mowing on June 17, 2009, in the amount of $120.24, weed mowing on August 12, 2009, in the amount of $120.24 and lot cleanup on October 6, 2009, in the amount of $1,478.74. Weed mowing on June 20, 2010, in the amount of $123.00, property owner has been invoiced. Invoice pending for weed mowing on August 16, 2010, in the amount of $123.00.

POLICE REPORT: From March 1992 through September 1992 there have been two reported police incidents of unlawful possession of marijuana.

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing there was no representative in attendance at this meeting.

Board Member Willenberg made a motion to refer the property to the City Council, recommending condemnation, with ten days to commence razing the building and ten days to finish the demolition.

Board Member Youle seconded the motion. The motion carried.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: August 24, 2010

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1508 N. GROVE (rear structure detached garage)

LEGAL DESCRIPTION: LOT 5, MCCOOL & LAMBE'S ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A two story frame dwelling about 24 x 24 feet in size. Vacant for at lease 2 1/2 years, this structure has been damaged by fire. It has fire damaged wood siding; badly worn composition roof, with fire damage and missing shingles; and the second floor porch is fire damaged.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 24, 2010

BCSA GROUP # 3

ADDRESS: 1508 N. GROVE (rear structure detached garage)

ACTIVE FIELD FILE STARTED: September 5, 2007

NOTICE(S) ISSUED: Since September 5, 2007, a notice of improvement and several violation notices have been issued.

PRE-CONDEMNATION LETTER: August 12, 2009

TAX INFORMATION: The 2008 and 2009 taxes are delinquent in the amount of $848.96, which includes interest.

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Maintained

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From May 1993 through March 2006 there have been seven reported police incidents at this location including disorderly conduct other (2), other miscellaneous offenses, larceny b auto accessories, burglary residence and miscellaneous report (2).

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made. Ground level of structure is secured, second story is unsecure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing no one was present to represent this property.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to start demollition and ten days to complete demolition. Board Member Coonrod seconded the motion. The motion passed.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

DATE: August 24, 2010

CDM SUMMARY

COUNCIL DISTRICT # 1

ADDRESS: 1528 N. ERIE

LEGAL DESCRIPTION: LOTS 70 AND 72, MT VERNON, NOW ERIE AVENUE, GIRARD ADDITION, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 38 x 23 feet in size. Vacant for at least 3 years, this structure has a cracking concrete block foundation, with missing blocks; rotted and missing wood siding; deteriorated rear porch, and the wood trim and framing members are rotted and missing.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 24, 2010

BCSA GROUP # 3

ADDRESS: 1528 N. ERIE

ACTIVE FIELD FILE STARTED: November 19, 1993

NOTICE(S) ISSUED: Since November 19, 1993, numerous notice of improvements and violation notices have been issued. In August 2003 and September 2007, Environmental cases were initiated on this property resulting in owner compliance. In February 2006, an Environmental case was initiated resulting in City of Wichita contractor abatement. In June 2009, a Tall Grass and Weeds case was initiated resulting in owner compliance. From 1996 through 2008 some repairs were made resulting in a few violations being cleared. It should be noted that Uniform Criminal Complaints have been issued and it has been the subject of Neighborhood Court.

PRE-CONDEMNATION LETTER: August 20, 2009

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Bulky waste, miscellaneous debris and tall grass.

VACANT NEGLECTED BUILDING REPORT: Pending

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: From December 1991 through July 2002 there have been ten reported police incidents at this location including burglary residence (5), burglary residence force day, lost miscellaneous property, miscellaneous report, larceny b auto accessories and other traffic violation impounded auto.

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing there was no one present as a representative for this property.

Board Member Coonrod made a motion to send the property before the City Council with a recommendation of condemnation, with ten days to begin removal of the structure and ten days to complete the wrecking. Board Member Harder seconded the motion. The motion was approved.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

Agenda Item No. III-6

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Wichita WaterWalk Art Project (District I)

INITIATED BY: Division of Arts & Cultural Services and Public Works

AGENDA: New Business

Recommendation: Approve Albert Paley as the artist selected for the Wichita WaterWalk Art Project and approve a budget of $350,000 for the artist design and fabrication fees.

Background: A national RFP was sent out in early 2010 requesting submittals for design concept proposals for the WaterWalk Art Project. Sixteen national and three local artists submitted proposals for review.

Analysis: These 19 proposals were reviewed through the staff screening and selection process. In addition, 3 members of the community were included on the screening team. A preliminary screening took place to narrow the number of artist proposals selected from 19 to three. The three selected artists were then asked to make presentations to the screening team in person and via phone. Upon completion of the presentations and phone interviews, Albert Paley was selected as the project artist based on his experience and prestige as a public artist, the size and scope of his previously completed public art projects, and the creative possibilities of the design concepts he proposed.

The site chosen for Mr. Paley's artistic enhancement is the corner of Waterman and Main Streets. The chosen location is approximately 125' x 125' and serves as the entrance into the WaterWalk site. The $350,000 identified for the artist is part of the larger $650,000 budget identified for the entire corner. Mr. Paley has agreed not to exceed the $350,000 budget and he will work with the architect on record, GossenLivingston McCluggage VanSickle to complete the project.

Financial Considerations: The $350,000 identified for the project includes artist design, development fabrication and construction fees. The WaterWalk Art Project is included within the overall budget; however, the specific component for selection of the artist will require a reduction in an encumbrance with Key Construction in the amount of $200,000. The total project budget, including the funding identified for the art as well as the site improvements will not exceed $650,000.

Goal Impact: Quality of Life. The completion of the art project will provide aesthetic improvements to the Wichita WaterWalk Project and the Main Street corridor leading to Century II and down Waterman to the Intrust Bank Arena.

Legal Considerations: The Law Department has initiated and approved the contract with Albert Paley.

Recommendation/Action: It is recommended that the City Council approve Albert Paley as the artist selection for the Wichita WaterWalk Art Project and approve a budget of $350,000 for the artist design and fabrication fees.

Attachments: Albert Paley contract.

Paley Studios Ltd.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

DESIGN AND FABRICATION AGREEMENT

THIS AGREEMENT, made as of this 23 day of August, 2010, by and between Paley Studios, Ltd., a New York corporation with a principal place of business at 1677 Lyell Avenue, Suite A, Rochester, New York 14606 ("Studio"), and the City of Wichita, a Kansas municipal corporation, with a principal place of business at 455 N. Main Street, Wichita, KS, 67202 ("Client" or "City"). City wishes to employ Paley Studio to design, execute, and install a sculpture for placement on the open-air plaza at the north east corner of WaterWalk (Project). Studio is ready, willing, and able to provide the professional artistic services necessary to accomplish the Project. This Agreement constitutes the terms and conditions under which Studio will provide these services:

1. **Artistic Services**.

   a. Studio agrees to provide all research, concept development, designs, preliminary drawings, specifications, detailed drawings, materials, fabrication, shipping and installation supervision services as necessary to execute according to an approved design and to supervise installation of the Project sculpture. Studio's services shall include attendance at necessary conferences or design review meetings, and on-site supervision as necessary for installation.

   b. Studio agrees to provide all materials needed to discharge the services described above, and all communication and transportation expenses, including per diem expenses incurred in satisfaction of the obligations stated above.

2. **Design Process**.

   a. Based upon the projected cost of the project, a design fee of $60,000 is required. This fee, paid in advance, will engage Paley Studios into the project. Upon approval of the design by the client and authorization to proceed, the design fee will be credited toward the total budget for Studio fees, costs, transportation, and expenses of $350,000. If the fabrication is not commenced, such sum is not refundable. The design fee includes research, development and form resolution of the sculpture, structural engineering of the sculpture, and a completed layout of the plaza as presented by drawings. All original artwork is retained by the studio. A proposed budget and project schedule will be included with the design presentation. The Project design shall be reviewed and approved by City staff as designated by the City Manager for functional requirements.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

b. Upon this approval, the design shall be reviewed and a recommendation by the City Art and Design Board according to their regular rules and procedures before Studio proceeds to construction and execution. Studio agrees to provide alternate designs or modification to a submitted design as may be required to secure the approval of the Art and Design Board. While minor revisions are included in this design fee, if a significantly different design is required, an additional design fee will be required. Final approval and acceptance of the design shall be by the City Council prior to construction and payment.

c. The sculpture design will be a proposal based on an art budget of $350,000. If the budget allotted for the artwork in the plaza design is reduced, a new design phase must be contracted. Once a concept has been identified and if the Client gives authorization to proceed, a fabrication will commence. Any materials generated by the Studio during the design phase may not be used for bidding purposes. If fabrication commences, Paley Studios has exclusive rights to fabrication.

3. Description.

To design a pedestrian plaza for the River Walk that would incorporate a free standing sculpture (Project). The sculpture is seen as a landmark and will provide a sense of identity for the site. Water will be the thematic basis for the sculptures design. The plaza design will incorporate the hard surfacing and landscape plan. The landscape plan and plaza development for the Project will be completed in coordination with the architect of record, GLMV Architecture, and the selected contractor for plaza construction, Key Construction Co. The total Project budget, including Studio Budget, installation services, and plaza construction shall not exceed $650,000.

4. Compensation and Payment.

a. Client agrees to pay the Studio the maximum sum of $350,000. Payments to be as follows:

i. Upon the execution of the Agreement in advance of the design phase $60,000

ii. Upon approval of the design, prior to fabrication $125,000

iii. Upon mid-point of fabrication as defined by the studio $100,000

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

iv. Upon inspection and approval of execution and installation by John D'Angelo, City Arts and Cultural Services Manager $40,000

b. The Studio shall give prompt written notice to Client upon the happening of any and all of the above-described events. Client shall have fifteen (15) days from the date of each respective notice to tender the appropriate payment.

c. All checks are to be made payable to Paley Studios, Ltd. All correspondence relating to this project is to be sent to Paley Studios, Ltd., 1677 Lyell Avenue, Suite A, Rochester, New York 14606.

5. **Fabrication.** The Studio will fabricate the Work based upon the approved design.

6. **Transportation.** The Work will be shipped by appropriate means from Paley Studios to the job site at Studio's risk and expense. Studio agrees that any damage which occurs in transit to the Project site will be repaired by Studio by means sufficient to return it to its original structural integrity and aesthetic standard.

7. **Installation.** Studio will cooperate with the architect of record and the general construction contractor to allow installation of The Work at a time and in a fashion allowing installation on a site properly prepared for it. Studio will supervise the actual installation of the work within the Project plaza, to be accomplished by Client's general construction contractor.

8. **Time of Performance.** Services called for under this Agreement shall be completed within 120 days of contract execution. In the event of unavoidable delays in the progress of the Project contemplated by this Agreement, including delays occasioned by the Client's review process, reasonable extensions in the time allotted for the work will be granted by the Client, provided, however, that the Studio shall request extensions, in writing, giving the reasons therefore.

9. **Impossibility of Performance and Termination.** Should the Work, from any cause, become a total loss or be seriously damaged, the Studio may, in its discretion, elect to refund the Client all installments, if any, received by the Studio, including the design fee. If the installments are refunded under the terms of this paragraph, this Agreement will be deemed terminated in all respects. If the Client fails to make any payment required under this Agreement, The Studio retains the right to terminate the Agreement, and thereupon this Agreement shall become void without prejudice to any remedy the Studio may have for the recovery of any moneys then due.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

10. **Vendor's Lien.** The Work and all materials used for the Work's fabrication shall become the property of the Client upon the payment of the second installment. The Work and all the materials used in the fabrication of the Work shall be subject to a lien in favor of the Studio as against the Client until final payment is made by the Client as required herein.

11. **Artist and Studio's Representations.** The Work is a one of a kind work of art and the Artist shall not execute or authorize another to execute another artwork substantially similar to the Sculpture commissioned pursuant to this Agreement.

12. **Copyright.** The Studio owns all designs, copyrights and rights of reproduction, and shall be entitled to utilize the drawings and photos of the Work for exhibitions, and shall be further entitled to reproduce such drawings and photos for use in the portfolios, books and publications about the Studio's work and/or the Studio in general. The Studio grants and assigns to the Client an irrevocable license to make two dimensional reproductions of the work for non-commercial purposes only. The parties agree that the completed work will be located in an open air plaza with full public access, and that photographs, drawings or three dimensional renderings may be made by third parties and cannot be controlled by Studio or Client.

13. **Moral Right.** The Client shall not use the Work in any manner which would reflect discredit on the Studio's name or reputation, or that of Albert Paley and the spirit of the Work. The Studio's remedies for breach of this provision shall be limited to the Studio's right to disclaim authorship of the Work, to require that its name be removed from the Work, and revocation of the reproduction license granted to the Client by the Studio.

14. **Warranty, Indemnification and Insurance**.

    a. Studio warrants that the project shall be free from defects in materials or workmanship for a period of one (1) year from final approval and shall maintain and repair the project for that time period as needed without cost to the City or Council.

    b. Studio shall indemnify, hold harmless and defend City and Council against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of Studio, its agents, servants, employees, or subcontractors occurring in the performance of its services under this Agreement.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

c. Studio shall procure and maintain such insurance as will protect Studio from damages resulting from the negligent acts of the Studio, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this Agreement. Such policy of insurance shall be in an amount not less than $500,000 and be subject to approval of City. In addition, a Worker's Compensation and Employer's Liability Policy shall be procured and maintained by Studio. This policy shall include an "all state" endorsement. The requirement of liability insurance may be satisfied by Studio's use of bondable, insured contractors.

15. Nondiscrimination. Studio agrees 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, and to comply with the City's Affirmative Action Program as set forth in Exhibit "A" which is attached hereto and adopted by reference as though fully set forth herein.

16. Non-assignment.
Studio agrees that the services to be performed by Studio under the terms of this Agreement are personal and cannot be assigned, delegated or transferred to another without specific consent of the City.

17. Non-waiver.

a. Neither the City's review, approval or acceptance of, nor payment for, any of the work or services required to be performed by Studio under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.

b. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

18. Independent Contractor. The relationship of Studio to the City will be that of an independent contractor. No employee or agent of Studio shall be considered an employee of the City.

19. No third party beneficiaries. It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part 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.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

20. **Indemnification.** Client and Studio shall save, defend and hold each other harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by their own errors, omissions or negligent acts, or those of their officers, agents, servants, or employees in the performance of their obligations under this agreement, or by the breach or inaccuracy of any of their representations, warranties, or covenants in this agreement .

21. **Complete Contract; No Oral Modification.** This agreement comprises the entire contract between the parties and no other warranties or representations are given or should be implied from the written or oral negotiations that proceeded this Agreement. ANY STATUTORY OR OTHER WARRANTY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, CONDITION, DESCRIPTION, OR ANY REPRESENTATION, EXPRESSED OR IMPLIED, AS TO THE STATE, QUALITY, OR FITNESS OF THE SCULPTURE ARE HEREBY EXCLUDED. The terms of this Agreement may only be modified by a writing signed by the parties hereto.

22. **Governing Law.** The validity and performance of the Agreement shall be governed by the laws of the State of Kansas. Should any dispute, claim or controversy arise under the terms of this Agreement, the parties agree that venue for resolution of said dispute, claim or controversy shall be in the state or federal courts located in the County of Sedgwick, State of Kansas.

23. **Force Majeure.** Neither the Studio nor Client shall be deemed in default of this Agreement to the extent that the performance of its obligations are prevented by any act of God, fire, natural disaster, accident, act of government or any other cause beyond the control of such party (Force Majeure) provided that such party gives the other party written notice thereof promptly and, in any event, within fifteen (15) days of discovery thereof and uses its best efforts to cure the delay. In the event of such a Force Majeure, time for performance of cure shall be extended for a period equal to the duration of the Force Majeure, provided however that if the Force Majeure continues for longer than six (6) months, the party not affected by the Force Majeure may terminate this Agreement without any liability upon written notice to the other party.

24. **Severability.** Should any provision of this Agreement be held void, invalid or inoperative, the remaining provisions of this Agreement shall not be affected and shall continue in effect and the invalid provision shall be deemed modified to the least degree necessary to remedy such validity.

25 NORTH WASHINGTON STREET · ROCHESTER, NEW YORK 14614 · (585) 232-5260 · FAX (585) 232-5507

25. **Notices.** Whenever a party desires or is required to give notice hereunto to the other parties hereto, the same shall be in writing and shall be deemed sufficiently "given" if deposited in the United States Mail, postage pre-paid by Registered or Certified Mail, Return Receipt Requested, to the addresses of the parties as outlined above.

26. **Assignment.** No assignment by any part of this Agreement, or any rights or obligations hereunder, shall be valid without the prior written consent of the other party hereto.

27. **Headings.** The headings of this Agreement are included for the convenience of reference only and shall not constitute a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first mentioned above.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

Paley Studios, LTD

By _____
Albert Paley, President

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: WaterWalk Master Plan, Site Areas No. 2 and No. 3 (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the revised master plan for site area two and the schematic master plan for site area three, authorize the inclusion of design criteria recommended by Design Council into the design process.

Background: In a City Council agenda item on September 1, 2009, the WaterWalk site was defined as three separate areas for clarity. These areas are:

- Site Area No. 1: The area between Main Street and Water Street
- Site Area No. 2: The area between Water Street and Wichita Street
- Site Area No. 3: The area between Wichita Street and the Arkansas River

On December 16, 2008, the City Council was presented a revised WaterWalk master plan that included locating the waltzing waters fountain on the east bank of the river. This plan required relocating the Jayhawk sailboat to make room for the fountain. The City Council approved the revised master plan as presented, but with the condition that public improvements could not be designed or constructed in site area three until Council had taken formal action regarding the Boathouse, had reviewed the master plan for this area, and had either affirmed its approval of the master plan or approved a revised plan that better served the area.

In the winter of 2009, the City issued a Request for Proposal (RFP) seeking proposals from qualified individuals and/or business entities regarding the use of the Boathouse. Proposals were evaluated, and the Council accepted the proposal in which the Boathouse would become home to the Kansas Sports Hall of Fame. One condition of accepting this proposal was that the Jayhawk sailboat could not be moved. This meant the waltzing waters fountain would no longer fit in the space available, thus eliminating any possibility of using the previously approved master plan for site area three.

The City's original STAR Bond application for funding of site area three was approved by the State based on the master plan showing the fountain by the river. Therefore, the City was required to request that the State reaffirm its STAR Bond commitment based on a new fountain location. On September 1, 2009, the City Council approved a revised master plan showing the waltzing waters fountain east of Wichita Street in site area two centered on an east-west axis midway between Gander Mountain and the Boathouse. Since the purpose of this master plan was to ammend the City's STAR Bond application, time was not taken to thoughtfully revise the design for the area between Wichita Street and the river.

Analysis: Prior to contracting for architectural services to complete the work in site areas two and three, separate Council approval is required regarding the master plan for each area.

Site Area 2: The Council action on September 1, 2009, approved a master plan for this area that located the waltzing waters fountain in the center of the block with future commercial development adjacent on the north, east and south sides. In the new master plan for site area two, the fountain is moved about 80 feet to the west allowing more room for commercial buildings per the wishes of the developers.

Also, the area around the fountain has been redesigned to relate more to the water features that have already been constructed in site area one.

Site Area 3: The City Council action on December 16, 2008, required that the City Council must give formal approval to a new master plan for this area following a final determination on the future of the Boathouse. Although a revised master plan was approved by the City Council on September 1, 2009, its purpose was to show the waltzing waters fountain in site area two for STAR Bonds conideration, and no new design effort was made relative to site area three. This area between Wichita Street and the river has been designated as a "Special Consideration Project" per the new Design Council Guidelines adopted by the City Council on August 10, 2010. A conceptual plan was presented to Design Council on August 18, 2010, and recommendations are attached. Additional comments are being solicited from Council members for inclusion in a new master plan for site area three. A completed master plan will be brought to the City Council for approval at a future date.

Financial Considerations: All City funding for the WaterWalk project is within the overall project budget of $41,600,000 for the public participation in the development of the east bank as expressed in the development agreement and later amendments. Financing sources include General Obligation Bonds, Tax Increment Financing, STAR District financing and a Federal Economic Develoopment Initiative (EDI) grant.

Area one is largely completed, with essentionally only the gateway at the southwest corner Main and Waterman to be constructed. There remains $650,000 in the budget for this purpose. Costs for Areas two and three will be paid from the remaining project budget resources. Some of these costs have already been incurred, such as $1.6 million for the purchase of the Waltzing Waters fourntain apparatus. The remaining budget includes $1,564,100 to complete Area two and includes $2,701,045 to complete Area three.

Goal Impact: This project addresses the Economic Vitality and Quality of Life goals through the continued revitalizationof the City's Core Area.

Legal Considerations: There are no legal considerations related to these actions.

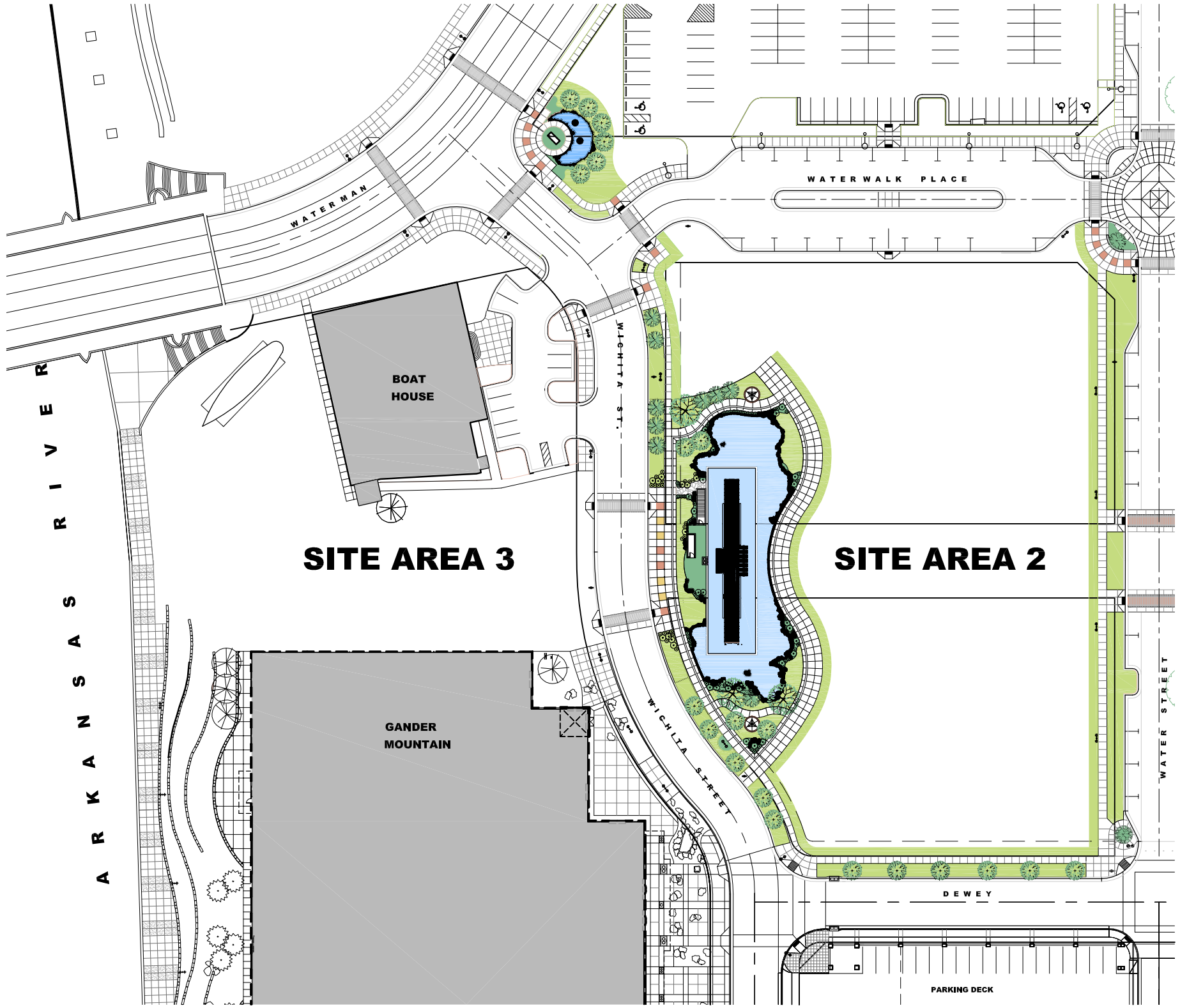
Recommendation/Action: It is recommended that the City Council Approve the revised master plan for site area two and the schematic master plan for site area three, authorize the inclusion of design criteria recommended by Design Council into the design process.

Attachments: Revised master plan for site area two, schematic master plan for site area three and Design Council recommendations.

Design Council Recommendations for WaterWalk
Wednesday August 18, 2010

Design Council members suggest the following criteria be considered when planning the plaza area:

- Amphitheatre tie in to the waltzing waters
- Acoustics for the amphitheatre
- Clarity on programmatic uses for the stage and amphitheatre as these program elements will drive the needs for lighting, power, data cables, and stage set up (back of house) and the height of the stage from seating in the amphitheatre.
- Design to discourage skateboarders
- Address the north wall of Gander Mountain and consider plant materials, materials that don't corrode and the possible use of "projection" (possible outdoor movies).
- Lighting elements should correspond with lighting existing along the river and throughout the project.
- If additional fountains are used, consider what they might look like when the water is shut off.
- Coordinate the view from the Boathouse looking down and into the plaza to the south.
- Consider the interaction of the plaza with the river.
- Enlist an artist for participation on the design team.



WATERWALK
SITE AREA 2 AND SITE AREA 3 PLAN

A 0' 10' 30' 60' 1"=30'-0.0"

N

GLMV Architecture
420 S. Emporia, Wichita, KS 67202
Tel: (316) 265-9367

125 S. Washington, Wichita, KS 67202
Tel: (316) 262-0451

www.glmv.com

© 2010 GLMV Architecture, Inc.
All work herein is the exclusive property of GLMV Architecture, Inc. and is not to be copied or used in any way without the express written consent of GLMV Architecture, Inc. All drawings, specification, ideas, designs and arrangements appearing herein constitute the original and unpublished Work of:

GLMV Architecture, Inc.

WICHITA WATERWALK

MASTER PLAN - SITE AREAS 2 AND 3
WICHITA, KANSAS

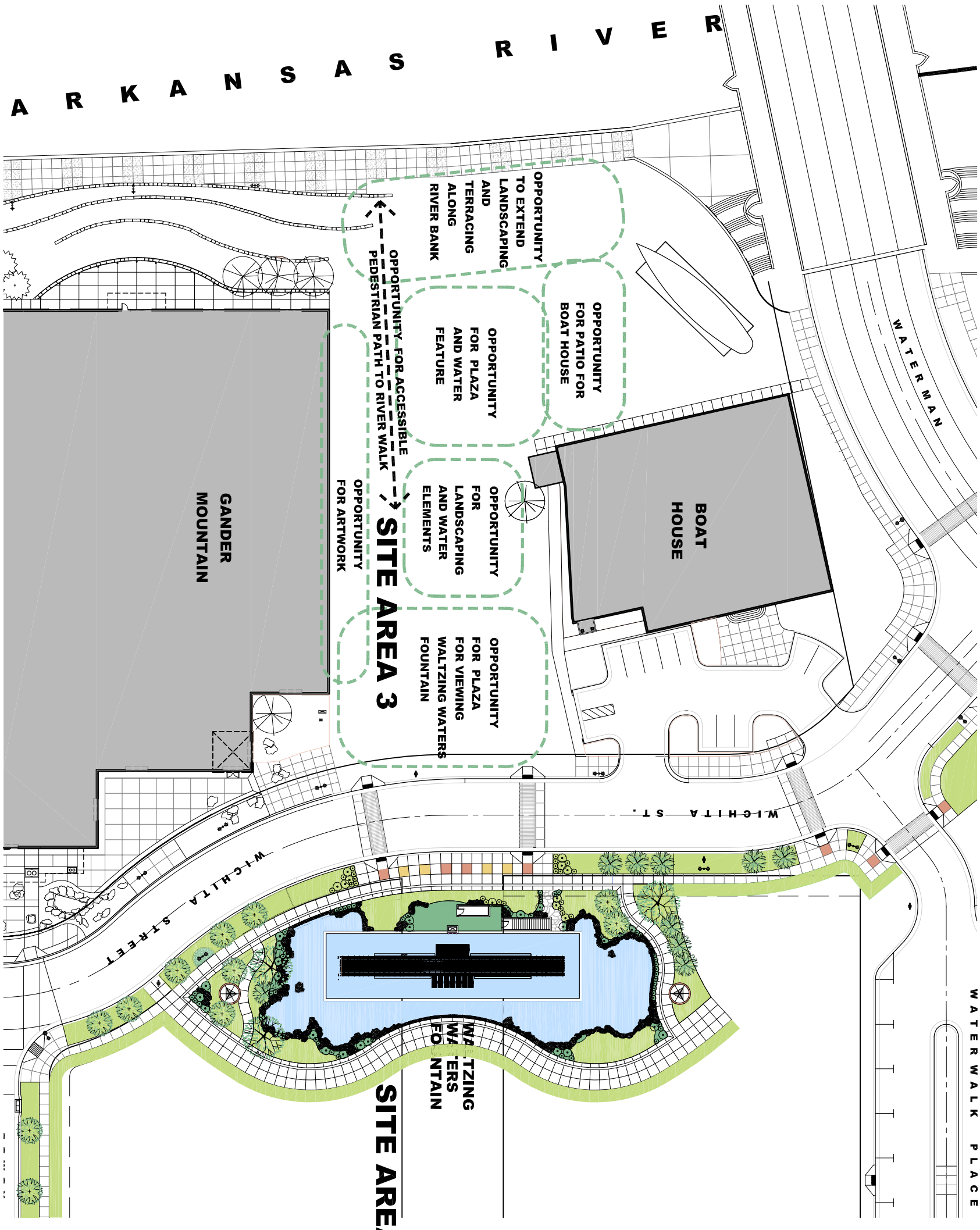
Mark	Date:	Description

MASTER PLAN
SITE AREAS 2 and 3

Job No.	1064.023
Date	09/01/10
Drawn	xxx
Checked	xxx

A-101

Dwg. # of #



WATERWALK
SITE AREA 2 AND SITE AREA 3 PLAN
A 0' 10' 20' 40' 1"=20'-0.0"

GLMV Architecture
420 S. Emporia, Wichita, KS 67202
Tel: (316) 265-3367
125 S. Washington, Wichita, KS 67202
Tel: (316) 262-0451
www.glmv.com

© 2010 GLMV Architecture, Inc.
All work herein is the exclusive property of GLMV Architecture, Inc. and is not to be used without prior written consent. Any use of this work without express written consent of GLMV Architecture, Inc. shall be deemed a violation of the rights of GLMV Architecture, Inc. and shall be subject to legal action.
GLMV Architecture, Inc.

WICHITA WATERWALK

MASTER PLAN - SITE AREAS 2 AND 3
WICHITA, KANSAS

Mark	Date:	Description

MASTER PLAN
SITE AREAS 2 and 3

Job No.	1064.023
Date	09/01/10
Drawn	xxx
Checked	xxx

A-101

Dwg. # of #

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: WaterWalk Architecture/Engineering Services, Site Areas No. 2 and No. 3 (District I)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the issuance of a contract amendment for architectural and engineering services for WaterWalk site areas two and three per the attached architect's proposal letter and authorize the necessary signatures. Approve the inclusion of public art in site area three and authorize the issuance of an Request for Proposal (RFP) to select an artist.

Background: In a Council agenda item on September 1, 2009, the WaterWalk site was defined as three separate areas for clarity. These areas are:

- Site Area No. 1: The area between Main Street and Water Street
- Site Area No. 2: The area between Water Street and Wichita Street
- Site Area No. 3: The area between Wichita Street and the Arkansas River

On December 16, 2008, the City Council approved a contract amendment with Gossen Livingston Associates, now Gossen Livingston McCluggage Van Sickle (GLMV), to provide architecture and engineering services for final design, construction documents and construction administration in site areas one and two. A contract amount of $60,000 plus reimbursable expenses not to exceed $5,000 was specified for site area two. The fees were based on the approved master plan current at that time, and changes to the design were to be treated as additional services. Site area three was excluded from the contract ammendment due to the uncertainty at that time of the future of the Boathouse and the area surrounding it.

The master plan that was approved on December 16, 2008, and that served as the basis for the GLMV contract ammendment, showed no public improvements in site area two except for perimeter landscaping, sidewalks and lighting, a small water feature at the southeast corner of Waterman and Wichita Street, and a one block long new street named WaterWalk Commons. Since then, GLMV designed the new master plan for the area that was approved by the City Council on September 1, 2009. That master plan included a parking lot on the north portion of site area two, which was later designed by GLMV, bid and constructed. GLMV has also designed the newest master plan for site area two with the Waltzing Waters fountain located closer to Wichita Street which works better with the developers plans for the area.

Analysis: The master plan for site area two approved by the City Council on September 1, 2009, and the current master plan for the area have made significant changes in the work from what was covered in the GLMV contract ammendment approved on December 16, 2008. The work GLMV has perfomed in site area two thus far has been charged to their existing contract. A new contract ammendment is now needed to cover the remaining work to be performed in site area two per the latest approved master plan and the work required in site area three.

GLMV has prepared a proposal letter with the terms of a contract amendment based on implementing what has been approved in the latest master plan for site area two and what is anticipated for the work to be required in site area three. That contract amendment, which includes an estimated $75,000 to $80,000 in consultant fees, is for total amount not to exceed $200,000 plus reimbursable expenses not to exceed $12,000. Expenses will be reimbursed at actual cost plus 10%.

In discussion with Council prior to the City Council's approval of the Revised Master Plan on September 1, 2009, staff stated that public art will be included in the design of site area three. Staff requests Council to affirm its commitment to public art for this area and to authorize the issuance of an RFP for the selection of an artist.

Financial Considerations: The cost of this contract amendment, the public art and the artist's services are within the project budget for the City's participation in the development of the east bank as expressed in the development agreement and later amendments

Goal Impact: This project addresses the Economic Vitality and the Quality of Life goals through the continued revitalization of the City's Core Area.

Legal Considerations: The contract amendment and RFP have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Concil approve the issuance of a contract amendment for architectural and engineering services for WaterWalk site areas two and three per the attached architect's proposal letter and authorize the necessary signatures. Approve the inclusion of public art in site area three and authorize the issuance of an RFP to select an artist.

Attachments: Architect's proposal letter.

September 1, 2010

Mr. Joe Pajor
Assistant Director of Public Works
City of Wichita, City Hall
455 North Main Street
Wichita, Kansas 67202

Re: Contract Amendment for Professional Services
Wichita WaterWalk – Design through Construction Administration
Remaining Work to Complete Site Areas 2 and 3

Dear Joe,

Per the request of Ed Martin, we have prepared a proposal to complete the public improvements for Site Area 2 (between Water and Wichita Street) and Site Area 3 (from Wichita Street to the river). This proposal is based on the most recent master plan for Site Area 2 and our basic understanding for Site Area 3.

Our Contract Amendment includes the design, bid documents and construction administration as required to complete the balance of the public improvements for Site Areas 2 and 3.

Additional changes to the master plan after City Council approval for Site Area 2 or Site Area 3 will affect the completion of the construction documents. We understand the total project budget is approximately $3.4 million for construction, professional fees and contingency, not including the cost of the Waltzing Waters fountain components which have already been purchased.

Our proposed Contract Amendment for professional fees for Site Area 2 and 3 will be an amount not to exceed Two Hundred Thousand Dollars ($200,000.00) plus reimbursable expenses estimated at Twelve Thousand Dollars ($12,000.00) to be reimbursed at cost plus 10 percent. Consultant services included in our proposal are structural, electrical, civil, mechanical (for the conditioning of the control rooms and heating of the pool), pool systems consultant and a sound systems consultant for Waltzing Waters. The fees charged by these consultants are estimated to total in the range of $85,000 - $90,000 for this project. If other consultants must be added to the project because of new or additional City requirements, their work will be considered additional services to our agreement.

Please refer to the attached scope of work for Site Area 2 and the parameters for Site Area 3. It is our understanding that Site Area 2 and Site Area 3 will be one bid package and the City would like to start construction early in 2011. Extensions of this time frame due to conditions beyond the control of the architect, such as changes in the scope or work or an unreasonable slowdown in the approval process will be considered additional services.

This Contract Amendment is based on the following assumptions:

1. Site Area 2 and site Area 3 will be bid as one package
2. If the services covered by this Contract Amendment have not been completed within 12 months of the date of the Contract Amendment, through no fault of the Architect, extension of the Architect's services beyond that time shall be considered Additional Services.
3. Construction Documents will be done by the end of January 2011 to complete the project within 12 months
4. The corner fountain at Main Street and Waterman is not part of this proposal
5. Geotechnical services are not included.
6. Preparation of demolition drawings for existing structures is not included.
7. Topographic surveys, platting, easements or legal descriptions more than what has already been

completed is an additional service
8. Environmental studies or services for investigation or mitigation are not included
9. We will use the 2006 IBC for the governing code.
10. NO variances by the City of Wichita are required for this project.
11. Full-time site representation during construction is not included.
12. No out-of-town travel or associated expenses are included.
13. Professional renderings are not included.
14. Scale models for marketing purposes are not included.
15. Value engineering studies and Life cycle cost analysis studies are not included.
16. Specialty consultants not listed in this proposal are not included in our fee.
17. Revisions to the master plan are not included.
18. Videos of the site including fly-around are not included.

GLMV Architecture shall submit invoices monthly to the City of Wichita plus expenses as called for in the Prime Agreement. Terms and conditions of our original Prime Agreement will apply to this Contract Amendment.

We look forward to finalizing this Contract Amendment with the City of Wichita. Please feel free to contact us if you have questions.

Yours truly,

Mac McKee
Executive Vice President

1064.023/1.6/1.1.3/2.1/MRM

September 1, 2010

<u>Narrative for Site Area 2</u>

- Sidewalks around the perimeter including some patterns except for the south side of WaterWalk Place. The sidewalk on the west side of Water Street will be coordinated with WaterWalk's architect to allow for angled parking
- Street lighting along the east side of Wichita from corner to corner. In addition, replace the short pole nautical lights on the north side of Dewey with taller poles and change the wattage on the lamps
- Add the sign location and water element at the Waterman & Wichita intersection, similar to what was done at the Dewey & Main intersection. The actual sign is not included
- No additional street lighting will be needed along Waterman
- Sod along the backside of the sidewalks around the block with irrigation (where appropriate)
- Trees along the perimeter of the block and additional landscaping around the water element to match the Dewey & Main Street water element (as required)

- Coordination for the work above with the architect for WaterWalk
- Landscaping to soften the edges of the pool around Waltzing Waters
- Seeding of the building sites and broadcast irrigation (as required)
- Street furniture to include benches, trash receptacles, newspaper enclosures, directories, etc., quantities to be determined
- Walkway with patterns, lighting, sound system and landscape east of Wichita providing access to the Waltzing Waters Fountain. We will coordinate the boundary with WaterWalk's architect
- Speaker "towers" for the Waltzing Waters sound system
- A pool for the Waltzing Waters fountain including space for the control panels and pump house for equipment to fill, drain and the filtration systems. In addition, precautions will be included to prevent the fountain from freezing for possible year round use
- Oversee the installation of the Waltzing Waters Fountain per the manufacturer's requirements
- Construction administration for the project

Items excluded:

- A sound system at the perimeter roads will not be included (like we did at Parcel 1)

<u>Preliminary Design Parameters for Site Area 3</u>

This is a preliminary list of the design parameters for Site Area 3.

- Sidewalks along the west side of Wichita Street north of Gander Mountain, stopping at the south edge of the Boathouse
- Street lighting along the west side of Wichita Street from north of Gander Mountain to Waterman
- No additional street lighting will be included along Waterman.
- Possible plazas or gathering areas with lighting, water elements and landscape from Wichita Street to river front, probably at multiple levels because of the grade change
- Possible accessible walking route from Wichita Street to river
- Possible retaining walls as required to protect the Jayhawk sailboat and the Boathouse
- Possible retaining walls as required at east edge of riverfront sidewalk
- Possible retaining walls as required to protect the north wall of Gander Mountain
- Street furniture similar to that used in earlier phases of the project, possibly including benches, trash receptacles, newspaper enclosures, etc.
- Coordination with artist hired by City for public art. The retaining of an artist or art consultant is not include in GLMV services
- Possible transformer enclosures and trash enclosures
- Possible water feature including space for required controls, pumps, etc.
- Possible sound system similar to what was done in Site Area 1
- Some form of small amphitheater or performance venue
- Construction administration for the project

Items excluded:

- A sound system at the perimeter roads will not be included

Agenda Item No. III-9

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Chris Cherches Memorial (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

- -

Recommendation: Approve the site location for the proposed Chris Cherches Memorial located at 334 North Mead.

Background: In 2004, upon the death of former City Manager Chris Cherches, a private fund was established with the intent to create a meaningful memorial in his name in the future.

Analysis: Susan Cherches has approved a site location in front of the Chris Cherches CityArts Building located at 334 North Mead. The proposed memorial site will include a shaded seating area with a small plaque in his name. The site will also include the Bruno Luchesi sculpture "After Shopping" which is currently located in front of the Museum of World Treasures.

Financial Consideration: None

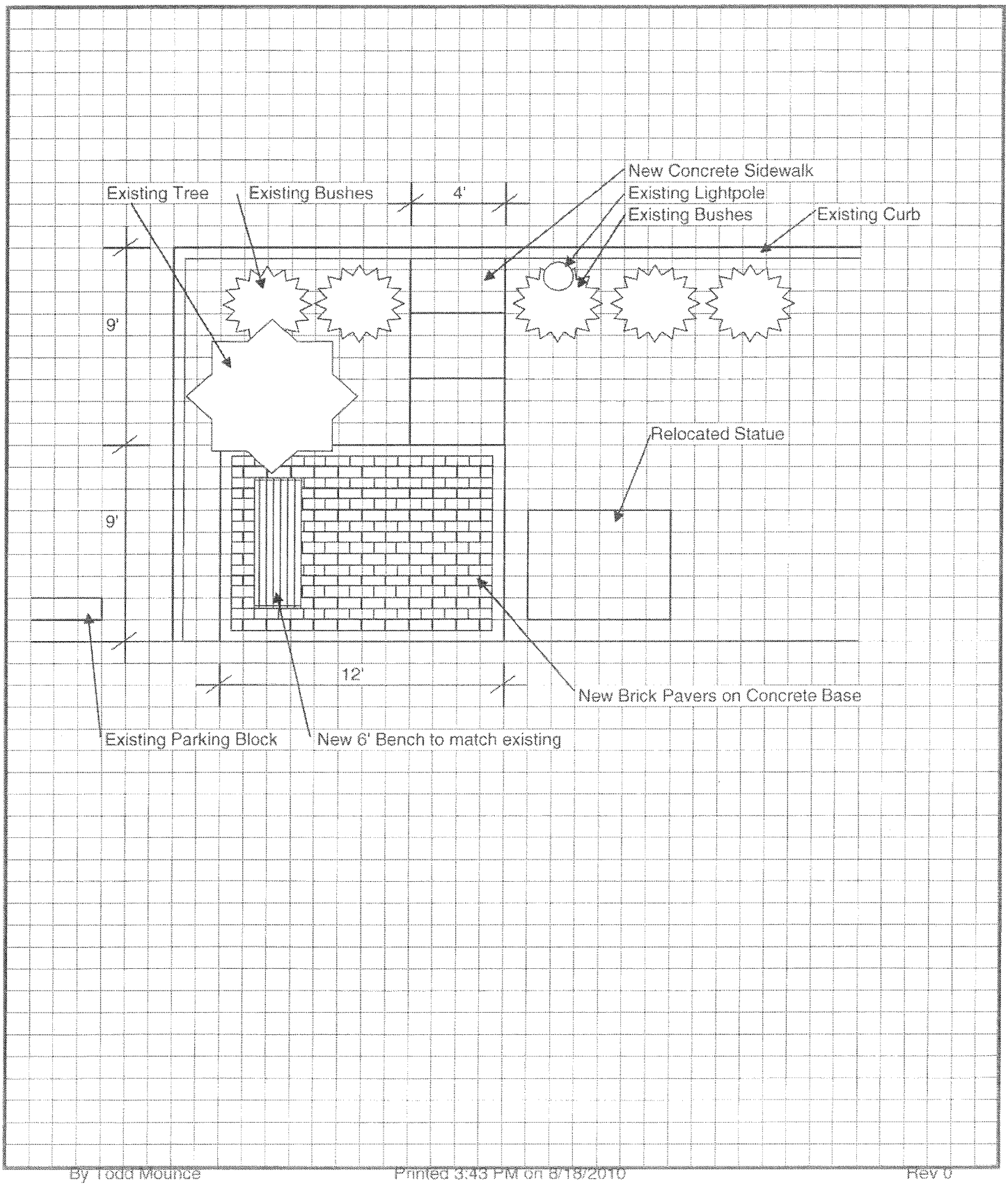
Goal Impact: To impact the Quality of Life for all citizens of Wichita by providing a location for rest and reflection in front of the facility Mr. Cherches was instrumental in constructing.

Legal Considerations: None.

Recommendation/Action: Approve the site location for the proposed Chris Cherches Memorial located at 334 North Mead.

Attachment: Site plan

PROJECT: Memorial for Chris Cherches DATE: 8/18/2010



By Todd Mounce Printed 3:43 PM on 8/18/2010 Rev 0

Agenda Item No. III-10

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

SUBJECT: Agreement and MOU regarding license to sell Cereal Malt Beverage at Wichita Wagonmasters Chili Cookoff Community Event (District I)

INITIATED BY: Law Department

AGENDA: New Business

Recommendation: Approve the Agreement and Memorandum of Understanding (MOU).

Background: Mr. Devin Hanson is the Director of Operations for the Wichita Wagonmasters Chili Cookoff community event and is the holder of a license to sell Cereal Malt Beverage (CMB) at the event, which was approved by the Council on August 3, 2010. Pursuant to a determination by the director of the Kansas Division of Alcohol Beverage Control (ABC), the City of Wichita's "special event" license used to license premises to allow the sale of CMB on a temporary basis is not recognized under state law, and all CMB licenses issued by the City of Wichita must be annual licenses. The license approved to be issued to Mr. Hanson would allow the sale of CMB upon public property for a calendar year, beginning September 23, 2010. Because the license is only needed for the duration of the Chili Cookoff event, the attached Agreement provides that, as a condition for granting the annual license for sale of CMB at this event, Mr. Hansen agrees to surrender that annual license no later than September 27, 2010, which is the Monday following the conclusion of the event.

Analysis: An annual CMB license for the sale of CMB at the Wichita Wagonmasters Chili Cookoff event has been approved, allowing for purchase and delivery of CMB from a licensed distributor for the event. Upon conclusion of the Chili Cookoff, the Agreement provides for the license to be surrendered and the public area will no longer be considered licensed for CMB sales or consumption. This process provides a mechanism for licensing the sale of CMB on a temporary basis and in a manner recognized by state law. It has been approved by the director of the ABC and conforms to all pertinent City ordinances.

Financial Consideration: None.

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: The Law department has drafted and approved the Agreement and Memorandum of Understanding with Mr. Hansen on behalf of the Wichita Wagonmasters, Inc.

Recommendation/Actions: Approve the Agreement and MOU between the City and Mr. Hansen for the surrender of the annual CMB license at the conclusion of the Wichita Wagonmasters Chili Cookoff event

Attachment: Agreement and Memorandum of Understanding.

AGREEMENT AND
MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT AND MEMORANDUM OF UNDERSTANDING is entered into this _____ day of _____, 2010 between Wichita Wagonmasters, Inc., P.O. Box 1106, Wichita, Kansas, 67201-1106, a not-for-profit corporation existing under the laws of the State of Kansas and the City of Wichita, Kansas (the "City") to memorialize the agreement of the parties concerning the licensure for sales of cereal malt beverage (CMB) at the 2010 Wichita Wagonmasters Chili Cookoff Event.

WHEREAS, in order for CMB to be sold on the premises of the 2010 Wichita Wagonmasters Chili Cookoff Event, a license must be issued allowing such activity by the City;

WHEREAS, to be recognized as a CMB license issued under the laws of the State of Kansas, such license must be issued for a calendar year; and

WHEREAS, Wichita Wagonmasters, Inc. have need of this license only upon the date of the 2010 Wichita Wagonmasters Chili Cookoff Event, and two days preceding said event, which is September 23rd through September 27th, 2010, and

NOW THEREFORE, for these reasons, and in consideration of the conditions, covenants and agreements set forth below, Wichita Wagonmasters, Inc. and the City agree as follows:

Upon receipt of Wichita Wagonmasters, Inc. license application which meets the requirements of State law and City ordinance, the City agrees to grant Vendor a license to sell CMB at the 2010 Wichita Wagonmasters Chili Cookoff Event upon premises to be delineated said license application. The license granted by the City will be effective September 23, 2010 and will be for the duration of one calendar year as required by the Kansas cereal malt beverage act, specifically, K.S.A. 41-2703(d). As a condition of accepting said annual license to sell CMB at the 2010 Wichita Wagonmasters Chili Cookoff Event upon premises delineated in said license application, Wichita Wagonmasters, Inc. agree that it will surrender said license back to City upon the close of the 2010 Wichita Wagonmasters Chili Cookoff Event, and in any event no later than the close of business on September 27, 2010. Wichita Wagonmasters, Inc. will provide a written statement indicating this intent to surrender said license and remit both this statement and the copy of the CMB license issued pursuant to this agreement to the City Hall Express, 1st Floor, City Hall.

The parties agree that this Agreement shall be binding upon the successors and legal representatives of the parties hereto.

IN WITNESS HEREOF, the duly authorized representatives of the parties have hereunto set their hand on the date and year written.

Wichita Wagonmasters	City of Wichita
By: _____	By: _____
Devin W. Hansen Wichita Wagonmasters, Inc. Director of Operations, Chili Cookoff Committee	Carl Brewer Mayor, City of Wichita
Date: _____	Date: _____

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Rename Edgemoor Skate Park the Ryan Woodward Memorial Skate Park. (Districts I and II)

INITIATED BY: Park and Recreation Department

AGENDA: New Business

Recommendation: Rename the skate area within Edgemoor Park.

Background: Ryan Woodward was an avid skater and user of Wichita's skate parks, especially Edgemoor Skate Park. He made significant efforts to clean and maintain the park. He tried to teach others the importance of preserving the park obstacles and appearance. Ryan Woodward died on February 24, 2009 in a tragic accident on his way to Edgemoor Skate Park. Ryan's parents, Jeff and Lisa Woodward, along with his family and friends, made the request of the Board of Park Commissioners to rename the skate area within Edgemoor Park the Ryan Woodward Memorial Skate Park.

On May 11, 2009, the Board of Park Commissioners approved renaming the skate area within Edgemoor Park the Ryan Woodward Memorial Skate Park.

On September 26, 2009, the first annual Ryan Woodward Memorial Skate Event was held at Edgemoor Skate Park. The event drew approximately 440 spectators and participants. The memorial is working with staff to schedule a 2010 event.

Analysis: City Council Policy 13 establishes the requirements and procedures for the naming or re-naming of public facilities. The policy calls for a seven-member committee consisting of residents appointed by the Mayor and City Council to make a recommendation for City Council consideration. On March 4, 2003, the City Council approved the Board of Park Commissioners to serve as the naming advisory committee for parks and open space. In recommending that the skate area be named after Ryan Woodward, the Board of Park Commissioners felt that Ryan had made significant contributions to skateboarding in the City of Wichita, and took substantial personal responsibility for the skate park at Edgemoor Park.

Financial Consideration: The Ryan Woodward Memorial Fund will finance the new skate park sign.

Goal Impact: Renaming the skate area will promote a Vibrant Neighborhood by being a positive influence to the skating community and encouraging youth to become involved citizens.

Legal Consideration: The Board of Park Commissioners action as naming advisory committee for park and recreation areas is consistent with the provisions of City Council Policy 13.

Recommendation/Actions: It is recommended that the City Council approve renaming the skate area within Edgemoor Park, the Ryan Woodward Memorial Skate Park.

Attachment: None.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Naming of Arson Canine Ashley's Memorial Dog Park. (District III)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Name the area in the park.

Background: On December 14, 2009 the Wichita Fire Department petitioned the Board of Park Commissioners, as naming authority for parks and open space, to name the City's first dog park, located within Chapin Park, 3800 South Hydraulic, after the first Arson Canine, Ashley. The Park Board voted unanimously (7-0) to approve the naming.

The Wichita Fire Department K-9 unit was founded in 1994 and runs to the current day. From 1994 to 2009, the K-9 unit has been deployed to 525 structure fires resulting in 102 felony arrests and has also participated in approximately 140 public education programs. There have been three Accelerant Detection Canines.

The first canine, Ashley, came to the Fire Department through State Farm Insurance Company. Ashley served from 1994 to 1999, when she was forced to retire due to severe sinus problems, allergies and cancer. Ashley worked 161 fire scenes, and her assistance resulted in 33 felony arrests for arson, aggravated arson and homicide. Ashley's biggest case was the Michael Marsh trial, where a mother and child were murdered and set on fire. Ashley located key evidence that led to his conviction. This was also the only time a K-9 had been allowed to "testify" in Sedgwick County District Court, demonstrating her ability to a judge and jury.

A trained investigator may take an hour or longer to detect an ignitable liquid due to debris and fallen structure where a canine can work a scene in five to 15 minutes. This exposure to dangerous substances and carcinogens compromised Ashley's health. On September 11, 2001, Ashley died of cancer contracted from her exposure and work she did for the Wichita Fire Department.

Analysis: City Council Policy 13 establishes the requirements and procedures for the naming or re-naming of public facilities. The policy calls for a seven-member committee consisting of residents appointed by the Mayor and City Council to make a recommendation for City Council consideration. On March 4, 2003, the City Council approved the Board of Park Commissioners to serve as the naming advisory committee for parks and open space.

Financial Consideration: Park and Recreation will install signage to designate the area as a park and provide continued maintenance.

Goal Impact: Naming the park will promote a Vibrant Neighborhood, allowing the community to honor Ashley and recognize the Accelerant Detection Canine program.

Legal Consideration: The Board of Park Commissioners action as naming advisory committee for park and recreation areas is consistent with the provisions of City Council Policy 13.

Recommendation/Actions: It is recommended the City Council approve naming Wichita's first dog park, Arson Canine Ashley's Memorial Dog Park.

Attachment: Picture of Ashley on scene.

June 20, 1994

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

SUBJECT: Meridian Dog Park. (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the project.

Background: The 2009-2018 Capital Improvement Program (CIP) adopted by the City Council includes a project to construct a dog park in Meridian Park, located south of 21st Street North on the west side of Meridian. Planned improvements include fencing, connecting pathways, dog water/drinking fountain units, landscaping improvements, irrigation and parking area.

Analysis: This project will provide dog owners in the northwestern portion of the City an off-leash facility in which to exercise their dogs. Meridian Park sits atop a closed landfill (Dump #9), and improvements will be developed in accordance with Kansas Department of Health and Environment (KDHE) landfill regulations. As with the Chapin Dog Park, it is anticipated that the Meridian Dog Park will be a popular use of a former landfill site. The design includes three separate fenced off-lease areas so they can be rotated.

Financial Considerations: The 2009 CIP budget is $170,000 for this project. The funding source is general obligation bonds.

Goal Impacts: This project will impact the Quality of Life by providing citizens with an area for them to exercise their dogs.

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

Recommendation/Action: It is recommended that the City Council 1) approve the bonding resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

Attachment: Bonding Resolution

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-234

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE CONSTRUCTION OF A DOG PARK IN MERIDIAN PARK.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Labor and material for the construction of a dog park in Meridian Park.

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 $170,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: 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, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Kingsbury Tract, future park site development. (District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Adopt the Resolution.

Background: The Kingsbury Park Master Plan was developed by RDG Planning and Design team and presented at a City Council Workshop on October 20, 2009. This plan outlines the steps necessary to create a regional signature park and itemizes the future construction documentation needed to complete this project. A supplemental agreement was developed to continue work required for the first phase of development.

Analysis: The 2009-2018 approved Capital Improvement Program (CIP) contains funding in 2009 to continue with the future development of infrastructure plans for the park. The 2009 CIP funds are earmarked for grading, staging and restoration plans for Area "A" of the Kingsbury Tract which is located along the east line of Hoover Road and north of K-96 Highway. A contract with the RDG team has been prepared in the amount of $242,000 to develop these documents. There is additional CIP funding in 2011 and 2012 for continued development of infrastructure plans in Area "B". This will include road designs, bridge plans, and other landscaping amenities. The Kingsbury Tract will become a one-of-a-kind recreational venue for Wichita and the developed plan is critical to coincide with the phasing of the sand mining so that the lake system will be developed simultaneously. Sand mining allows "sculpting" of the lake bottom in varying and unique configurations to accommodate different uses, such as scuba diving, recreational and competitive boating activities, swimming and fishing.

Financial Considerations: The 2009 CIP provides $250,000 for Land Acquisition and Development and was approved to fund development of Area "A" of Kingsbury Park.

Goal Impact: The initiation of this project will greatly enhance the Quality of Life for citizens of Wichita by increasing recreational opportunities. Kingsbury Park is being designed as a regional aquatic destination with exceptional facilities with a variety of uses.

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

Recommendation/Action: It is recommended that the City Council approve the bonding resolution and authorize signatures as required.

Attachments: Bonding resolution.

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-235

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR THE DEVELOPMENT PLANS AT THE KINGSBURY TRACT DEVELOPMENT AREA.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Grading, staging and restoration plans for Area "A" of the Kingsbury Tract Development Area.

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 $250,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: 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, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Irrigation Systems Replacement and Upgrade. (Districts I, III, IV, and VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the projects.

Background: The 2010-2018 Capital Improvement Program (CIP) adopted by the City Council includes funding to maintain, replace or expand irrigation systems throughout Wichita's parks, right-of-ways and open spaces. A three-person crew is responsible for over 190 irrigation controllers, over 1,800 irrigation valves, including 22,000 irrigation heads.

Analysis: Renovation and updating of central controls and system components is necessary to maintain the operational and efficient irrigation systems. It also ensures compliance with City and state codes, and protects the investment in public landscaping. A prioritized list of needs has been developed, which includes Watson Park (District III), West Douglas Park (District IV), Meridian Park (District VI), Grove Park (District I), and the Ridge Road/US Highway 54/Airport entrance area (District IV). Priorities are adjusted as warranted by routine inspections and changes to regulatory codes.

Financial Consideration: The Park Capital Improvement Plan includes $60,000 in 2010 and $60,000 in 2011 for irrigation improvements. The funding source is General Obligation bonds.

Goal Impact: This project addresses the Efficient Infrastructure goal by protecting the City's investment in our irrigation infrastructure, and improves Quality of Life by providing aesthetically pleasing public areas.

Legal Consideration: The Law Department has approved the bonding resolution as to form.

Recommendation/Actions: It is recommended that the City Council approve the projects, approve the bonding resolution and authorize all necessary signatures.

Attachment: Bonding resolution.

OCA397247/785171

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-236

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR IRRIGATION SYSTEM RENOVATIONS AND THE UPDATING OF CENTRAL CONTROLS AND SYSTEM COMPONENTS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The labor, material, and equipment for irrigation system renovations and the updating of central controls and system components for Watson Park (District III), West Douglas Park (District IV),
Meridian Park (District VI), Grove Park (District I), and the Ridge Road/US 54 Airport Entrance area (District IV).

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 $120,000 exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: 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, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

SUBJECT: 2010 Park Facilities Renovation. (Districts I, II, V, VI)

INITIATED BY: Department of Park and Recreation

AGENDA: New Business

Recommendation: Approve the bonding resolution and authorize initiation of the project.

Background: The Park and Recreation Department has a number of existing facilities and park amenities that are aging and in need of replacement or renovation. This project has been initiated each year since 2001 and has resulted in significant improvements in various parks, recreation centers and park shelter facilities throughout the City. These renovation projects protect the City's investment in these assets by keeping them functional and aesthetically attractive to citizens and user groups.

Analysis: The Park Department has $200,000 in the 2010 Capital Improvement Program (CIP) for renovations or updates at several park and facility locations. The Park Recreation and Open Space Plan (PROS) recommended that the Park Department establish neighborhood site councils to assist in planning for park and facility neighborhood improvements and programming enhancements. Based on the neighborhood recreational site council's recommendations, improvements or minor renovations will be completed at four locations. The Evergreen and Linwood Recreation Center site councils would like to have their existing kitchen areas renovated for special events and cooking classes. The Boston Recreation Center site council would like a connecting path system around their park's perimeter so that the neighborhood can form walking groups and provide the neighborhood with a safe place to gather and exercise. Finally, the walking path at Harvest Park will be completed with the combination of a recently awarded Sunflower Foundation grant and the Park Renovation Fund will provide partial funding to install approximately 1900 feet of trail on the north and west side of the park.

Financial Considerations: The 2010 Park CIP includes $200,000 for this year for the renovation of parks and other facilities; however we are only seeking to initiate $138,000 of that designated amount. The remainder of the 2010 Park CIP will be brought back to the City Council at a later date as other projects are identified. The designated funding source is general obligation bonds.

Goal Impacts: This project will impact the Quality of Life and Infrastructure Goal by providing citizens with updated and well maintained recreational facilities and neighborhood pathways. The improvements and renovations will also maintain the investment that citizens have made in capital improvement to existing park facilities.

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

Recommendation/Action: It is recommended that the City Council 1) approve the bonding resolution, 2) authorize initiation of the project, and 3) authorize all necessary signatures.

Attachment: Bonding resolution

OCA37244/785168

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-237

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE FOR IMPROVEMENTS AND/OR RENOVATIONS TO VARIOUS PARKS, PARK FACILITIES AND RECREATION CENTERS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

Labor, material, and equipment for the improvements and/or renovations of kitchens at Evergreen Recreation Center and Linwood Recreation Center, a walking path around the perimeter of Boston Park and a walking path at Harvest Park. The walking path at Harvest Park will be completed with the combination of a recently awarded Sunflower Trails grant.

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 $200,000, exclusive of the costs of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established as authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: 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, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: Fit for Kansas Kids Grant. (Districts III, V, VI)

Initiated By: Department of Park and Recreation

Agenda: New Business

Recommendation: Approve the grant application process.

Background: The United Methodist Ministry Fund has issued a Request for Proposal to develop community resources, practices and policies supporting young children age two to five and their families in activities that increase physical activity and healthy nutrition. The grant requires several locations to be affected by the improvements. The grant application is due September 30, 2010.

Analysis: The Department of Park and Recreation and the Wichita Play Commission is requesting City Council approval to apply for a grant to purchase a trailer and outdoor play equipment to become a mobile play station. Establishment of a mobile play station is one of ten goals that the Wichita Play Commission established last year. The trailer will be filled with outdoor games and play equipment for all ages and will be staffed by two part-time seasonal staff and positioned at various parks and other locations throughout the summer to provide healthy play activities for children. In an effort to provide access to low income children at the various Summer Lunch Program sites, the mobile play station will provide an opportunity for the children to exercise and play after lunch. Neighborhood organizations, churches, non-profit organizations and public use events will be able to utilize the equipment for use at their events.

The grant will also be used to install toddler age appropriate playground equipment at Buffalo Park, Emporia Park and Watson Park. A tricycle path will be installed at Watson Park near the existing playground and pedal tractors will be available for use by toddlers. A toddler age climber will be placed in the interior of the pathway. A tricycle merry-go-round will be installed at the existing playground at Emporia Park along with a therapeutic musical play ensemble placed adjacent to the Ronald McDonald House. An additional piece of toddler age play equipment will be placed in the existing playground at Buffalo Park.

Financial Consideration: The department's staff will provide in-kind services by installing the playground appropriate equipment at each of the park facilities and offering supervised play activities. The grant request will be for approximately $70,000.

Goal Impact: To Support a Dynamic Core area and Vibrant Neighborhoods while improving the Quality of Life for children.

Legal Consideration: None.

Recommendation/Actions: Approve the grant application process.

Attachment: None.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Ordinance amendments to Chapter 9.08 regarding maintenance of trees on public property. (All Districts)

INITIATED BY: Park Department

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: In 2009, the Board of Park Commissioners undertook review of a number of Board of Park Commissioner rules, regulations and ordinances related to park and Board of Park Commissioner functions. Included within this review were ordinances relating to the care and maintenance of trees located on public property and within the public right-of-way.

The proposed amendments have been submitted to all District Advisory Boards for comments and suggestions. The comments and suggestions were taken and reviewed by staff. The amendments were then submitted a second time to the District Advisory Boards. The amendments were approved by the Board of Park Commissioners on July 19, 2010.

Analysis: The amendments make a number of changes to the existing ordinances, including:

1. Authorize the Director of Park and Recreation, Department of Public Works and Office of Central Inspection to enforce provisions of ordinances. Previously ordinances were subject to enforcement by the Board of Park Commissioners;

2. Require property owners, or other individuals, who desire to cut or remove trees in the public right-of-way to get permission from the Director of Park and Recreation before such trees are altered or removed. Minor trimming (branches less than 2" in width) or trimming required by storm damage do not require Director permission;

3. Establish a system to abate tree nuisances.

Financial Considerations: None.

Goal Impact: The ordinance amendments will assist in maintaining Quality of Life for Wichita residents.

Legal Considerations: The amendments have been prepared and approved as to form by the Law Department.

Recommendation/Action: It is recommended that the ordinance be placed on first reading.

Attachments: Ordinance 9.08 Delineated
Ordinance 9.08 Clean

172201First Published in The Wichita Eagle on September 24, 2010

7/20/2010

ORDINANCE NO. 48-824

AN ORDINANCE AMENDING SECTIONS 9.08.001, 9.08.002, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.050, 9.08.060, 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 AND 9.08.160 AND CREATING SECTION 9.08.000, 9.08.095 AND 9.08.098 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TREES AND SHRUBS AND REPEALING THE ORIGINALS OF SECTIONS 9.08.001, 9.08.002, 9.08.003, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.040, 9.08.050, 9.08.060. 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 AND 9.08.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 9.08.000 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Definitions.** The following terms, as used in this chapter, shall have the following meanings:

'Alter' means to cut, girdle, prune, destroy, remove or in any manner injure a tree or large shrub.

'City' means the City of Wichita.

'City Council' means the City Council of the City of Wichita.

'Dangerous Tree' means any tree, large shrub or part thereof, living or dead, which an officer finds is in such a condition and is located in such a place as to constitute a danger to persons or property in the vicinity of the tree.

‘Dead Tree’ means any tree, large shrub or branch which an officer has determined that no part of the tree or branch is living.

‘Director’ means the Director of the Wichita Park and Recreation Department or his or her designee.

‘Diseased or infected tree’ means any tree or large shrub which is infected or infested with any tree or plant disease or insect, pest or larvae, which an officer finds that the uncontrolled presence of such disease or infestation constitutes a hazard to or could result in damage to or destruction of other trees in the community.

‘Officer’ means representatives of the Department of Park and Recreation, Office of Central Inspection and Department of Public Works who are designated and authorized to enforce the provisions of this code.

‘Owner’ means the owner or person in control of the property.

‘Park property’ means all grounds, roadways and land acquired or owned by the City and all grounds, roadways and land owned by the Board of Park Commissioners of the City of Wichita, Kansas, which are designated for use as a park by the City Council.

‘Person’ means individuals, groups, organizations, associations, partnerships, firms and corporations.

‘Public property’ means any dedicated or undedicated public land, streets, parking lots, public spaces and rights-of-way within the City.

‘Public right-of-way’ means the entire width of the area from property line to property line, including the area between the roadway and the abutting private property line.

‘Sidewalk’ means that portion of a street between the curb line or the lateral lines of a roadway and the adjacent property lines intended for use by pedestrians.

‘Street’ means the entire width between property lines of every way publicly maintained when any part of the area is open to use by the public for purposes of vehicular travel. Such term shall include highways, avenues, boulevards, trafficways, alleys or any other public way for vehicular travel by whatever name.

‘Trees’ means trees, tree materials and large shrubs.”

SECTION 2. Section 9.08.001 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Declaration of Policy regarding costs of tree maintenance . The cost of planting, maintaining, pruning, removal and care of trees in the public rights-of-way shall be the responsibility of the City of Wichita.”

SECTION 3. Section 9.08.002 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Duties of Director of Park and Recreation.** (a) The Director of Park and Recreation is responsible for all maintenance functions relating to trees in the public rights-of-way and on park and public property.

(b) The Director of Parks and Recreation, the Office of Central Inspection and the Wichita Department of Public Works, and their designated representatives shall be responsible for the enforcement of all provisions of this Code.

(c) All officers are hereby authorized to make such investigations, to issue notices, orders and directions as are necessary for the enforcement of the provisions of this chapter."

SECTION 4. Section 9.08.005 of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Injuring trees on public property.** It shall be unlawful for any person to intentionally alter any shade tree, shrub, flower, or other ornamental plant standing or growing, wholly or in part, in or on any park property, street or on any public property of the City."

SECTION 5. Section 9.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Injuring trees -- Consent. (a) It shall be unlawful for any person to intentionally alter any tree~~s~~ standing or growing, wholly or in part in or on any street, public right-of-way, or other public property without the consent of the Director.

(b) The provisions of subsection (a) shall not apply to:

(1) the removal of branches which are less than two (2) inches in diameter which are required to be removed to maintain seven (7) feet of clearance above sidewalks and 13.5 feet of clearance above streets; and

(2) the removal of water sprouts, and suckers."

SECTION 6. Section 9.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Application for permission to alter trees. (a) Any person desiring to alter, spray or interfere with any tree, or any branch, root or part thereof, standing or growing, wholly or in part, in any street, or public right-of-way shall first request permission from the Director to do so. If permission is deemed prudent, the Director shall grant such permission.

(b) In the event of a storm, freeze or other environmental event resulting in damage to trees, the adjoining property owner will be allowed to remove broken or damaged branches in the right-of-way without permission from the Director. Disposal of debris generated by the adjoining property owner will be the responsibility of the property owner. Permission from the Director will be required for the removal of an entire tree."

SECTION 7. Section 9.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Duty of person altering; permitting wood, brush, logs, etc., to remain on sidewalk, etc., prohibited.**

It shall be the duty of any person altering any tree, branch or root referred to in Section 9.08.020, to remove the stump, fill the hole with dirt and clean up and haul away all wood, brush, logs, stumps and other debris resulting from the altering of such tree. No person shall permit any wood, brush, logs or stumps to remain on any sidewalk, parking or any part of the street after a tree is altered."

SECTION 8. Section 9.08.050 of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electric wires, etc.--Temporary removal or shutting-off current in order to alter.

It shall be the duty of any person owning or having charge of wires or any other conductors of electricity, which pass through or near trees within the limits of park~~s~~ property, streets, public rights-of-way and public property of the City, to cause such wires to be temporarily removed or the electricity in such wires to be shut off when it is necessary in order to alter or treat any such trees."

SECTION 9. Section 9.08.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Notice to owner to remove or shut off current; duty upon notice--Exception. When it shall become necessary to shut off the electricity or remove the wires as provided in Section 9.08.050, the Director shall give the owner of such electrical wires, a notice to shut off the electricity or remove the wires. It shall be the duty of the person owning such wires, to, within forty-eight hours from the time of such notice, cause the wires to be temporarily removed or the electricity to be shut off. When the work is completed which required the electricity to be shut off or wires to be removed, the Director shall notify the owner of such wires that the power may be restored. Where such wires are owned by a public utility company, in lieu of removing said wires or shutting off electricity, the Director may authorize the trees to be altered by the utility company under the supervision of the Director at no cost to the City."

SECTION 10. Section 9.08.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Tree Nuisances Declared.** (a) All dead or broken trees, or branches thereof, within the corporate limits of the City, which have become dangerous, or which are likely to become dangerous to the public safety, or to persons or property within the vicinity of the tree are hereby declared to be and constitute a public nuisance.

(b) Diseased or infested trees within the corporate limits of the City are declared to be a public nuisance.

(c) Dangerous trees within the corporate limits of the City are declared to be a public nuisance."

SECTION 11. Section 9.08.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Duty of owners of private premises to abate.** It shall be the duty of the owners of any private property, upon which any nuisance as described in Section 9.08.070 may be located, to cause the same to be promptly abated by treating or removing any designated tree or trees."

SECTION 12. Section 9.08.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Notice to remove or abate; contents. It shall be the duty of the Director, or other officer, to serve written notice, by personal service or registered or certified mail, of the existence of any nuisance as provided for in Section 9.08.070, to the owner or occupants of the property upon which the nuisance is

situated. The notice shall require that all nuisances, as defined by Section 9.08.070, be promptly removed and abated. The notice shall require that all such nuisances be abated within a designated time period, not exceeding fourteen (14) days from the date of the notice, provided that an extension of one ten (10) day period shall be granted if the owner or agent of the owner of the property demonstrates that due diligence is being exercised in abating the nuisance."

SECTION 13. Section 9.08.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Hearings--Right of person aggrieved by service of notices.**

Any person affected by a notice, which has been issued pursuant to Section 9.08.090 who is aggrieved thereby, and who believes the same to be contrary to the policies or regulations of the City, may request and shall be granted an informal hearing on the matter before the Director or his or her designated representative. Such person shall file, in the Department of Parks and Recreation, a written request for such informal hearing and set forth a brief statement of the grounds therefor, within ten days after the day notice was served. Upon receipt of such request, the Director shall set a time and place for the informal hearing and shall give written notice thereof. At such informal hearing, the individual shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The informal hearing shall be commenced not later than ten days after the day on which the request was filed; provided that upon application of the individual, the Director may postpone the date of the informal hearing for a reasonable time beyond such ten day period, if

in his or her judgment the individuaol has submitted a good and sufficient reason for such postponement."

SECTION 14. Section 9.08.098 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Sustaining, modifying or withdrawing notices. After an informal hearing as provided for in Section 9.08.095, the Director or his or her designated representative may sustain, modify or withdraw the notice, depending upon his findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Director or his or her designated representative sustains or modifies such notice, it shall be deemed to be an order."

SECTION 15. Section 9.08.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Failure of occupant or owner of premises to comply with notice to abate or remove. (a) If the occupant or owner of the private property fails or refuses to abate such nuisance within the time specified in the notice, it shall be the duty of the Director or other officer authorized to enforce this code, to cause such nuisance to be abated.

(b) If the City takes action to abate the violation, it shall provide a Notice of Costs to the property owner, representative, or tenant. The Notice of Costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the Notice of Costs shall also be posted on the property in a reasonable manner. The recipient

shall have thirty (30) days from the date of the Notice to make full payment. The Notice of Cost shall state:

(1) The common or legal description of the property, or both;

(2) The nature of the violation, including relevant ordinances;

(3) The nature of the work performed to abate the violation;

(4) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;

(5) That the notice is a demand for payment within thirty days from the date of notice;

(6) That failure to pay the entire amount within thirty days shall allow the City to file a tax lien against the property or to pursue litigation for the recovery of the costs, or both;

(7) That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest;

(8) That payment shall be made by check or money order made payable to the City of Wichita, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments.

(c) If the payment of costs is not made within the thirty-day period, the City may levy a special assessment for such costs against the lot or piece of land. The City Clerk, at the time of certifying other City taxes to the County Clerk, shall certify the aforesaid costs, and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The costs shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the appropriate court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interests, court costs, attorney's fees, and administrative costs have been paid in full."

SECTION 16. Section 9.08.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Affixing, fastening, etc., notices, advertisements, placards, etc.**

No person shall affix, fasten or tie any notice, advertisement, placard, wire, cable or anything to any tree growing wholly or in part in or on any public street~~s~~ rights-of-way or park~~s~~, or public property without the consent of the Director."

SECTION 17. Section 9.08.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Placing stones, cement, etc., near tree trunk. It shall be unlawful for any person to place or maintain upon the ground within the public street~~s~~, public rights-of-way or park property of the City, any stone, cement or other

substance which shall impede the free passage of water and air to the roots of any growing tree therein, without leaving an open space of ground outside the trunk of such tree in an area not less than sixteen (16) square feet, or approximately four (4) feet by four (4) feet without first having secured the consent of the Director to do so."

SECTION 18. Section 9.08.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Guards or devices to prevent injury required during erection or repair of buildings, etc.**

In the erection or repair of any building or structure in the City, the owner shall place or cause to be placed guards or devices around all nearby trees within the streets, public rights-of-way, or park~~s~~ or public property of the City, as shall prevent injury to such trees."

SECTION 19. Section 9.08.140 of the Code of the City of Wichita, Kansas, is hereby mended to read as follows:

"Planting and maintenance: rules and regulations. The Director shall determine when and where trees shall be planted on park~~s~~ property, public rights-of-way and streets, the kind of trees and all matters relating to the planting and maintenance thereof within the city. It shall be the duty of the Director to care for, maintain and protect trees planted upon the streets, public property and public rights-of-way and to make all rules and regulations necessary therefor."

SECTION 20. Section 9.08.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Abutting property owners on streets and avenues to keep pruned at minimum height. It shall be the duty of all persons owning or controlling any real estate abutting or adjoining any street to prune the trees on their premises so that the limbs and undergrowth shall not hang or extend down over the sidewalk or street abutting such property less than seven feet from the level of such sidewalk or 13.5 feet from such street as required by Section 11.22.020 of the Code of the City of Wichita."

SECTION 21. Section 9.08.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Penalties.** (a) Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than two hundred dollars or be imprisoned for not more than thirty days or be so fined and imprisoned at the discretion of the court.

(b) In addition to the penalty set forth above, the court may order the defendant to perform the necessary labor to repair, remove or replace trees damaged by that person, or to pay any costs incurred by the Director related to the repair or replacement of trees damaged by that person."

SECTION 22. The originals of Section 9.08.001, 9.08.002, 9.08.003, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.040, 9.08.050, 9.08.060, 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 and 9.08.160 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 23. 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 21st day of September, 2010.

_____
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 7/20/2010

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 9.08.001, 9.08.002, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.050, 9.08.060, 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 AND 9.08.160 AND CREATING SECTION 9.08.000, 9.08.095 AND 9.08.098 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TREES AND SHRUBS AND REPEALING THE ORIGINALS OF SECTIONS 9.08.001, 9.08.002, 9.08.003, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.040, 9.08.050, 9.08.060. 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 AND 9.08.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 1. Section 9.08.000 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Definitions.** The following terms, as used in this chapter, shall have the following meanings:

'Alter' means to cut, girdle, prune, destroy, remove or in any manner injure a tree or large shrub.

'City' means the City of Wichita.

'City Council' means the City Council of the City of Wichita.

'Dangerous Tree' means any tree, large shrub or part thereof, living or dead, which an officer finds is in such a condition and is located in such a place as to constitute a danger to persons or property in the vicinity of the tree.

‘Dead Tree’ means any tree, large shrub or branch which an officer has determined that no part of the tree or branch is living.

‘Director’ means the Director of the Wichita Park and Recreation Department or his or her designee.

‘Diseased or infected tree’ means any tree or large shrub which is infected or infested with any tree or plant disease or insect, pest or larvae, which an officer finds that the uncontrolled presence of such disease or infestation constitutes a hazard to or could result in damage to or destruction of other trees in the community.

‘Officer’ means representatives of the Department of Park and Recreation, Office of Central Inspection and Department of Public Works who are designated and authorized to enforce the provisions of this code.

‘Owner’ means the owner or person in control of the property.

‘Park property’ means all grounds, roadways and land acquired or owned by the City and all grounds, roadways and land owned by the Board of Park Commissioners of the City of Wichita, Kansas, which are designated for use as a park by the City Council.

‘Person’ means individuals, groups, organizations, associations, partnerships, firms and corporations.

‘Public property’ means any dedicated or undedicated public land, streets, parking lots, public spaces and rights-of-way within the City.

‘Public right-of-way’ means the entire width of the area from property line to property line, including the area between the roadway and the abutting private property line.

‘Sidewalk’ means that portion of a street between the curb line or the lateral lines of a roadway and the adjacent property lines intended for use by pedestrians.

‘Street’ means the entire width between property lines of every way publicly maintained when any part of the area is open to use by the public for purposes of vehicular travel. Such term shall include highways, avenues, boulevards, trafficways, alleys or any other public way for vehicular travel by whatever name.

‘Trees’ means trees, tree materials and large shrubs.”

SECTION 2. Section 9.08.001 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Declaration of ~~p~~Policy ~~as to~~ regarding costs of tree maintenance .

~~It is hereby declared to be the policy of the City of Wichita that~~ ~~t~~The cost of planting, maintaining, ~~trimming~~ pruning, removal and care of trees ~~and large shrubs~~ in the ~~street~~ public rights-of-way shall be ~~borne by~~ the responsibility of the ~~c~~City ~~at large and paid for out of the special forestry tax levy authorized by House Bill 137 of the 1961 session of the Kansas Legislature, said tax to be levied by the governing body only after approval of a budget of expenditures prepared and submitted by the board of park commissioners, such levy in no event to exceed one mill on the dollar of taxable tangible property~~ of Wichita.”

SECTION 3. Section 9.08.002 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Duties of ~~board of park commissioners~~ Director of Park and Recreation.** (a) The ~~board of park commissioners~~ Director of Park and Recreation is ~~hereby charged with the performance of~~ responsible for all maintenance functions ~~in connection with~~ relating to trees~~, shrubs and growing plants within the City of Wichita, except only the levying of the special forestry tax referred to in Section 9.08.001 hereof and the imposing of special assessments for the destruction of trees growing on private property as provided in Section 9.08.100 hereof~~ in the public rights-of-way and on park and public property.

(b) The Director of Parks and Recreation, the Office of Central Inspection and the Wichita Department of Public Works, and their designated representatives shall be responsible for the enforcement of all provisions of this Code.

(c) All officers are hereby authorized to make such investigations, to issue notices, orders and directions as are necessary for the enforcement of the provisions of this chapter."

SECTION 4. Section 9.08.005 of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Injuring trees, ~~shrubs, etc.,~~ on public property.** It shall be unlawful for any person to intentionally ~~cut, trim, girdle, remove, destroy or in any manner injure~~ alter any shade tree, shrub, flower, or other ornamental plant standing or growing, wholly or in part~~ly~~, in or on any park property, ~~parkway, boulevard~~

street or on any public property of the ~~c~~City~~, board of park commissioners, board of education, board of regents, library board, art museum board, Historic Wichita or other board or commission that may own, lease or be responsible for the maintenance of property located within the City of Wichita~~."

SECTION 5. Section 9.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Injuring trees, ~~shrubs, etc.~~--Consent. (a) It shall be unlawful for any person to intentionally ~~cut, trim, prune, girdle, destroy, remove or in any manner injure~~ alter any tree~~s~~ standing or growing, wholly or in part~~ly~~ in or on any street, ~~alley,~~ public ~~highway~~ right-of-way, or ~~public park or~~ other public ~~reservations in the city~~ property without the consent of the ~~board of park commissioners~~ Director.

(b) The provisions of subsection (a) shall not apply to:

(1) the removal of branches which are less than two (2) inches in diameter which are required to be removed to maintain seven (7) feet of clearance above sidewalks and 13.5 feet of clearance above streets; and

(2) the removal of water sprouts, and suckers."

SECTION 6. Section 9.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Application for permission to ~~cut, prune, trim, etc.~~ alter trees.

(a) Any person desiring to ~~remove, cut, girdle, destroy or in any manner injure, or to cut, trim, prune,~~ alter, spray or interfere with any ~~shade or fruit~~ tree ~~or shrub~~, or any branch, root or part thereof, standing or growing, wholly

or in part~~ly~~, in any street, ~~alley~~ or public ~~highway~~ right-of-way ~~in the city or in any of the parkways or boulevards of the city,~~ shall first ~~make application to the board of park commissioners of the city~~ request permission from the Director ~~for permission~~ to do so. If permission is deemed ~~advisable~~ prudent, the ~~board of park commissioners~~ Director shall grant such permission.

(b) In the event of a storm, freeze or other environmental event resulting in damage to trees, the adjoining property owner will be allowed to remove broken or damaged branches in the right-of-way without permission from the Director. Disposal of debris generated by the adjoining property owner will be the responsibility of the property owner. Permission from the Director will be required for the removal of an entire tree."

SECTION 7. Section 9.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Duty of person ~~cutting down or removing~~ altering; permitting wood, brush, logs, etc., to remain on sidewalk, etc., prohibited.**

It shall be the duty of any person ~~cutting down or removing~~ altering any tree, ~~shrub,~~ branch or root referred to in Section 9.08.020, to ~~grub out and~~ remove the stump, fill the hole with dirt and clean up and haul away all wood, brush, logs, stumps and other debris resulting from the ~~cutting or removal~~ altering of such tree. No person shall permit any wood, brush, logs or stumps to remain on any sidewalk, parking or any part of the street after a tree is ~~trimmed or removed~~ altered."

SECTION 8. Section 9.08.050 of the City of Wichita, Kansas, is hereby amended to read as follows:

"Electric wires, etc.--Temporary removal or shutting-off current in order to ~~remove, trim, prune, etc.~~ alter.

It shall be the duty of any person owning ~~or controlling~~ or having charge of wires or any other conductors of electricity, which ~~wires~~ pass through or near trees within the limits of ~~the public~~ park~~s, parkways, boulevards~~ property, streets, public rights-of-way and public ~~grounds~~ property of the ~~c~~City, to cause such wires to be temporarily removed or the electricity in such wires to be shut off when it is necessary in order to ~~remove, prune, trim~~ alter or treat any such trees."

SECTION 9. Section 9.08.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"~~Same~~--Notice to owner ~~or person in control~~ to remove or shut off current; duty upon notice--Exception. When it shall become necessary to shut off the electricity or remove the wires as provided in Section 9.08.050, the ~~d~~Director ~~of the board of park commissioners~~ shall give ~~to~~ the owner ~~or person in control~~ of such electrical wires ~~or transmission agencies~~, a notice ~~of such necessity~~ to shut off the electricity or remove the wires. It shall be the duty of the person owning ~~or controlling~~ such wires, to, within forty-eight hours from the time of such notice, ~~to~~ cause the wires to be temporarily removed or the electricity to be shut off ~~therefrom~~. When the work is completed which required the electricity to be shut off or wires to be removed, the Director shall notify the owner of such wires that the power may be restored. Where such wires are owned

by a public utility company, in lieu of removing said wires or shutting off electricity, the ~~d~~Director ~~of the board of park commissioners~~ may authorize the trees to be ~~trimmed or removed~~ altered by the utility company under the supervision of the ~~board of park commissioners~~ Director at no cost to the ~~c~~City ~~or said board~~."

SECTION 10. Section 9.08.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**~~Dead or broken trees, etc.—~~Tree Nuisances Declared ~~a nuisance~~.**

(a) All dead or broken trees, or branches thereof, within the corporate limits of the ~~c~~City, which have become dangerous, or which are likely to become dangerous to the public safety, or to ~~the occupants of~~ persons or property ~~on private premises~~ within the vicinity of the tree are hereby declared to be and constitute a public nuisance.

(b) Diseased or infested trees within the corporate limits of the City are declared to be a public nuisance.

(c) Dangerous trees within the corporate limits of the City are declared to be a public nuisance."

SECTION 11. Section 9.08.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**~~Same--Same~~--Duty of owners of private premises to abate.** It shall be the duty of the owners of any private ~~premises~~ property, upon which any nuisance as described in Section 9.08.070 may be located, to cause the same to be promptly abated by treating or removing any designated tree or trees. ~~All dead~~

~~elm trees or dead branches thereon shall not be left standing, but promptly removed and destroyed by burning in the manner provided by law.~~"

SECTION 12. Section 9.08.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**~~Same--Same~~--Notice to remove or abate; contents.** It shall be the duty of the ~~d~~Director, or other officer, ~~of the board of park commissioners~~ to ~~see that due~~ serve written notice, by personal service or registered or certified mail, of the existence of any nuisance as provided for in Section 9.08.070, ~~shall be given~~ to the owner or occupants of the property upon which the ~~same~~ nuisance is situated~~,~~. ~~and to cause~~ The notice shall require that all nuisances, as defined ~~in the above-mentioned section~~ by Section 9.08.070, ~~existing in the public parks, parkways, boulevards, streets, alleys or public places of the city, to~~ be promptly removed and abated. The ~~above-mentioned~~ notice shall require that all such nuisances be abated within ~~three days after such notice~~ a designated time period, not exceeding fourteen (14) days from the date of the notice, provided that an extension of one ten (10) day period shall be granted if the owner or agent of the owner of the property demonstrates that due diligence is being exercised in abating the nuisance."

SECTION 13. Section 9.08.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Hearings--Right of person aggrieved by service of notices.** Any person affected by a notice, which has been issued pursuant to Section 9.08.090 who is aggrieved thereby, and who believes the same to be contrary to the policies

or regulations of the City, may request and shall be granted an informal hearing on the matter before the Director or his/her designated representative. Such person shall file, in the Department of Parks and Recreation, a written request for such informal hearing and set forth a brief statement of the grounds therefor, within ten days after the day notice was served. Upon receipt of such request, the Director shall set a time and place for the informal hearing and shall give written notice thereof. At such informal hearing, the individual shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The informal hearing shall be commenced not later than ten days after the day on which the request was filed; provided that upon application of the individual, the Director may postpone the date of the informal hearing for a reasonable time beyond such ten day period, if in his or her judgment the individual has submitted a good and sufficient reason for such postponement."

SECTION 14. Section 9.08.098 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"**Sustaining, modifying or withdrawing notices.** After an informal hearing as provided for in Section 9.08.095, the Director or his or her designated representative may sustain, modify or withdraw the notice, depending upon his findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Director or his or her designated representative sustains or modifies such notice, it shall be deemed to be an order."

SECTION 15. Section 9.08.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"~~Same--Same~~--Failure of occupant or owner of premises to comply with notice to abate or remove. (a) If the occupant or owner of the private ~~premises shall~~ property fails or refuses to abate such nuisance within the time specified in ~~Section 9.08.090~~ the notice, it shall be the duty of the ~~d~~Director or other officer authorized to enforce this code, ~~of the board of park commissioners~~ to cause such nuisance to be abated. ~~and the actual cost thereof charged to and collected from the owner of the private property, and the same shall be paid by the owner or occupant of such property~~.

(b) If the City takes action to abate the violation, it shall provide a Notice of Costs to the property owner, representative, or tenant. The Notice of Costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the Notice of Costs shall also be posted on the property in a reasonable manner. The recipient shall have thirty (30) days from the date of the Notice to make full payment. The Notice of Cost shall state:

(1) The common or legal description of the property, or both;

(2) The nature of the violation, including relevant ordinances;

(3) The nature of the work performed to abate the violation;

(4) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;

(5) That the notice is a demand for payment within thirty days from the date of notice;

(6) That failure to pay the entire amount within thirty days shall allow the City to file a tax lien against the property or to pursue litigation for the recovery of the costs, or both;

(7) That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest;

(8) That payment shall be made by check or money order made payable to the City of Wichita, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments.

(c) If the payment of costs is not made within the thirty-day period, the City may levy a special assessment for such costs against the lot or piece of land. The City Clerk, at the time of certifying other City taxes to the County Clerk, shall certify the aforesaid costs, and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The costs shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the

appropriate court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interests, court costs, attorney's fees, and administrative costs have been paid in full."

SECTION 16. Section 9.08.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Affixing, fastening, etc., notices, advertisements, placards, etc.**

No person shall affix, fasten or tie any notice, advertisement, placard, wire, cable or anything to any tree growing ~~within the limits of the~~ wholly or in part in or on any public street~~s, boulevards, parkways, drives~~ rights-of-way or ~~public~~ park~~s~~, or public property ~~of the city~~ without the consent of the ~~board of park commissioners~~ Director".

SECTION 17. Section 9.08.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Placing stones, cement, etc., near tree trunk. It shall be unlawful for any person~~,~~ to place or maintain upon the ground within ~~the limits of~~ the public street~~s~~, ~~boulevards, parkways, drives~~ public rights-of-way or ~~public~~ park~~s~~ property of the ~~c~~City, any stone, cement or other substance which shall impede the free passage of water and air to the roots of any growing tree therein, without leaving an open space of ground outside the trunk of such tree in an area not less than ~~four~~ sixteen (16) square feet, or approximately four (4) feet by four (4) feet without first having secured the consent of the ~~board of park commissioners~~ Director to do so."

SECTION 18. Section 9.08.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Guards or devices to prevent injury required during erection or repair of buildings, etc.**

In the erection or repair of any building or structure in the ~~c~~City, the owner ~~thereof~~ shall place or cause to be placed ~~such~~ guards or devices ~~about~~ around all nearby trees within the ~~limits of the public~~ streets, ~~boulevards, parkways, drives~~ public rights-of-way, or ~~public~~ park~~s~~ or public property of the ~~c~~City, as shall ~~effectually~~ prevent injury to such trees. ~~All persons, companies or corporations, during the construction or repair of any street, alley, parkway or boulevard, shall place such barricades, guards or devices around trees where mechanical machines or equipment are being operated to effectually prevent injury to such trees.~~"

SECTION 19. Section 9.08.140 of the Code of the City of Wichita, Kansas, is hereby mended to read as follows:

"Planting and maintenance: rules and regulations. The ~~board of park commissioners~~ Director shall determine when and where trees shall be planted ~~in the public~~ on park~~s~~ property, public rights-of-way~~,~~ and streets, the kind of trees and all matters relating to the planting and maintenance thereof within the city. It shall be the duty of the ~~board of park commissioners~~ Director to care for, maintain and protect trees planted upon the ~~public~~ streets, public property ~~avenues~~

~~and alleys~~ and public rights-of-way and to make all rules and regulations necessary therefor."

SECTION 20. Section 9.08.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Abutting property owners on streets and avenues to keep ~~trimmed~~ pruned at minimum height. It shall be the duty of all persons owning or controlling any real estate ~~in the city~~ abutting or adjoining any street ~~or avenue in the city~~ to ~~trim~~ prune the trees on their premises so that the limbs and undergrowth ~~therefrom~~ shall not hang or extend down over the sidewalk~~,~~ or street ~~or avenue~~ abutting such property less than ~~six~~ seven feet from the level of such sidewalk~~,~~ or 13.5 feet from such street ~~or avenue~~ as required by Section 11.22.020 of the Code of the City of Wichita."

SECTION 21. Section 9.08.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Penalties.** (a) Any person violating any of the provisions of ~~Sections 9.08.005 to 9.08.150 inclusive, of~~ this chapter shall, upon conviction thereof, be punished by a fine of not more than two hundred dollars or be imprisoned for not more than thirty days or be so fined and imprisoned at the discretion of the court.

(b) In addition to the penalty set forth above, the court may order the defendant to perform the necessary labor to repair, remove or replace trees damaged by that person, or to pay any costs incurred by the Director related to the repair or replacement of trees damaged by that person."

SECTION 22. The originals of Section 9.08.001, 9.08.002, 9.08.003, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.040, 9.08.050, 9.08.060, 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 and 9.08.160 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 23. 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 _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Amendments to Speed Limit Ordinance, Section 11.96.010 (All Districts)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: City of Wichita Ordinance 11.24.040 requires an engineering and traffic investigation to determine speed limits that are safe for operation of vehicles. The Traffic Engineer is assigned the task of conducting traffic studies on streets within the corporate limits of the City of Wichita, and designating the maximum speed for vehicles operating on the streets and roadways. The maximum speeds for safe operation must be designated in City of Wichita Ordinance 11.96.010. Due to the creation of new streets within the corporate limits, as well as studies on existing streets, City of Wichita Ordinance 11.96.010 must be amended.

Analysis: Amendments to City of Wichita Ordinance 11.96.010 would designate safe maximum speed for operation of vehicles on the streets of the City. The speeds designated by City of Wichita Ordinance 11.96.010 are posted.

Financial Considerations: There is no cost to the City.

Goal Impact: The amended ordinance addresses the Safe and Secure Community goal by setting the speed limits for these locations at the appropriate speed.

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

Recommendations/Actions: It is recommended that the City Council place the ordinance on first reading and authorize the necessary signatures.

Attachments: Delineated and final copies of the proposed ordinance.

(First Published in The Wichita Eagle on _____)

August 2010

ORDINANCE NO.

DELINEATED

AN ORDINANCE AMENDING SECTION 11.24.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF SPEEDING AND REPEAL OF THE ORIGINAL SECTION 11.24.040

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

Section 1. 11.24.040 of the Code of the City of Wichita, Kansas, shall read as follows:

Sec. 11.96.010. Speed limits.
In accordance with the provisions of Section 11.24.040 of this Code, and when signs are erected giving notice thereof, the maximum speed limit, except as provided for in Section 11.20.150, should be as set forth in this schedule upon those streets or portions thereof, or areas of street system and at the time specified herein.

	Maximum Speed Limits Miles Per Hour
A. Areas of Street Systems Affected:	
All other streets within the city limits other than those listed within subsection B of this section	30
B. Name of Street and Portion Affected:	
Airport Road from Kellogg Avenue to Harry Street	40
Amidon Avenue from Thirty-third Street North to Twenty-ninth Street North	40
Amidon Avenue from Twenty-ninth Street North to Twenty-first Street North	35
Amidon Avenue from Twenty-first Street North to Seventeenth Street North extended	40
Arkansas Avenue from Twenty-ninth Street North to Forty-sixth Street North	35
Arkansas Avenue from Forty-sixth Street North to north city limits	40
Armour Drive from Kellogg ~~Douglas~~ Avenue to Lincoln Street	35
Broadway Avenue from the north city limits to the south city limits:	
1. From the north city limits to Twenty-first Street North	40
2. From Pawnee Avenue to Patterson Avenue	35
3. From Patterson Avenue to Forty-seventh Street South	40
4. From Forty-seventh Street South to south city limits	45
Central Avenue from the west city limits to the east city limits:	

1. From west city limits to McLean Blvd	40
2. From Nims Street to Waco Street	35
3. From Washington Street to ~~Rock Road~~ Oliver	~~40~~ 35
4. From ~~Rock Road~~ Oliver to east city limits	40
Cider Street from 350' east of Minnesota Avenue to Grove Street	40
Cider Street from Grove Street to Seventy-first Street South	50
Douglas Avenue from Washington Avenue to Edgemoor Drive	35
Douglas Avenue from Eastborough city limits to Webb Road	40
Douglas Avenue from West Street to Seneca Street	35
Edwards Avenue from McCormick Avenue to Maple Street	35
Fifty-fifth Street South from the west city limits to Hydraulic Avenue	40
Fifty-third Street North from the west city limits to the east city limits	40
Forty-fifth Street North from Oliver Street to the west city limits	45
Forty-fifth Street North from Rock Road to east city limits	40
Forty-seventh Street South from the west city limits to the east city limits	40
Forty-third Street North from Webb Road to Lindberg Street	40
George Washington Boulevard from Lincoln Street to Thirty-first Street South	40
~~Gold Street from Thirty-fifth Street South to Macarthur Road~~	~~35~~
Greenwich Road from the north city limits to the south city limits	40
Grove Street from Central Avenue to Kellogg Street	35
Grove Street from Kellogg Street to Lincoln Street	40
Grove Street from Cider Street to Sixty-third Street South	50
Harry Street from Airport Road to ~~Mid-Continent Road~~ Woodchuck	40
Harry Street from K-42 (Southwest Boulevard) to West Street	40
Harry Street from Southeast Boulevard (K-15) to Hydraulic Avenue	35
Harry Street from Hydraulic Avenue to ~~Grove Street~~ One-hundred Twenty-seventh Street East	40
Harry Street from ~~Grove Street to Woodlawn Avenue~~ One-Hundred Twenty-seventh Street East Avenue to the East city limits	40
~~Harry Street from Woodlawn Avenue to east city limits~~	~~40~~
Hillside Avenue from Ninth Street North to Twenty-seventh Street North	35
Hillside Avenue from Twenty-seventh Street North to ~~north city limits~~ Thirty-seventh Street North	40
Hillside Avenue from Thirty-seventh Street North to Forty-fifth Street North	50
Hillside Avenue from Forty-fifth Street North to the North city limits	45
Hillside Avenue from Douglas Avenue to Thirty-first Street South	35

Hoover Street from Pueblo Drive to the south city limits	45
Hoover Street from Twenty-first Street North to the north city limits	35
~~Horn Avenue from Jardine Drive to Twenty-fourth Street~~	~~15~~
Hydraulic Avenue from I-135 northbound on-off ramps to the north city limits	40
Hydraulic Avenue from K-15 (Southeast Boulevard) to Thirty-First Street South	35
Hydraulic Avenue from Thirty-first Street South to the south city limits	40

	Max.	Min.
I-135 from the north city limits to the south city limits ~~to I-235~~	60	40
I-235 from the north city limits to the south city limits	65	40

	Max.
~~Jardine Drive from Twenty-first Street North to Twenty-fourth Street~~	~~15~~
K-96 from I-135 to 1/2 mile west of Hillside Avenue	55
K-96 from 1/2 mile west of Hillside Avenue to the east city limits	65
Kellogg Drive from One-hundred Nineteenth Street West to Mid-Continent Road	40
Kellogg Drive from Mid-Continent Road to Hoover	35
Kellogg Drive from Oliver Street to ~~Governeour Street~~ Eastern	35
Learjet Way from Mid-Continent Road to 2000' west of Mid-Continent Road	40
Lincoln Street from Rock Road to Grove Street	35
Lincoln Street from Grove Street to Hydraulic Avenue	40
Lincoln Street from Hydraulic Avenue to Osage Street	35
Lindberg Street from Thirty-seventh Street North to Forty-third Street North	40
MacArthur Road from the west city limits to the Big Arkansas River	40
Maize Road from the north city limits to 1000’ south of Twenty-ninth Street North ~~Carr Street~~	~~40~~ 45
Maize Road from 1000’ South of Twenty-ninth Street North to Carr Street ~~to south city limits~~	~~45~~ 40
Maize road from Carr Street to the South city limits	45
Maple Street from the west city limits to ~~Sheridan Avenue~~ Country View	~~40~~ 50
Maple Street from Country View to Sheridan ~~to Seneca~~	~~35~~ 40
Maple Street from Sheridan to Seneca Avenue ~~west city limits to West Street~~	~~40~~ 35

McCormick Avenue from Osage Street to West Street	35
McLean Boulevard from Seventeenth Street North extended to Seneca Avenue	40
McLean Boulevard from Seneca Avenue to Taft Avenue	35
McLean Boulevard from Taft Avenue to Thirtieth Street South	40
Meridian Avenue from the south city limits to May Avenue	40
Meridian Avenue from May Avenue to University Avenue extended	35
Meridian Avenue (North Meridian Avenue) from the south side of I-235 to the north city limits	45
Mid-Continent Road from University Avenue to Harry Street	40
Mosley Avenue from Murdock Avenue to Twenty-first Street North	35
Mt. Vernon Road from Woodlawn Avenue to Grove Street	35
Mt. Vernon Road from Grove Street to Hydraulic Avenue	40
Mt. Vernon Road from Hydraulic Avenue To K-15 (Southeast Blvd)	35
Murdock Avenue from Nims Avenue to North River Boulevard	20
Norman Avenue from K-42 (Southwest Boulevard) to MacArthur Road	35
Ninth Street North from Grove Street to southbound ramps of I-135	35
Ohio Avenue from Twenty-sixth Street North to Thirty-seventh Street North	35
Oliver Street from the north city limits to the south city limits:	
1. From the north city limits to Seventeenth Street	40
2. From Seventeenth Street to Kinkaid Street	35
3. From Kinkaid Street to the south city limits	40
One-hundred Nineteenth Street West from the north city limits to Maple Street	40
One-hundred Nineteenth Street West from Maple Street to the south city limits	45
One-hundred Twenty-seventh Street East from the north city limits to the south city limits	45
One hundred thirty-fifth street west from the north city limits to the south city limits	40
One-hundred Fifty-first Street west from the North city limits to the South city limits	40
Opportunity Drive	20
Orient Boulevard from Seneca Avenue to Meridian Avenue	35
Pawnee Avenue from West Street to Seneca ~~Meridian~~ Avenue	40
Pawnee Avenue from Seneca ~~Meridian~~ Avenue to Hillside Avenue	35
Pawnee Avenue from Hillside Avenue to the east city limits	40
Pueblo Drive from Hoover Street to Airport Road	40
Ridge Road from University Avenue to 800' north of Twenty-ninth Street North	40
Ridge Road from 800' north of Twenty-ninth Street North to Thirty-seventh Street North ~~north city limits~~	45
Ridge Road from Thirty-seventh Street North to the North city limits	50

Rock Road from the north city limits to Thirty-seventh Street North	35
Rock Road from Thirty-seventh Street North to Pawnee Avenue	40
Rock Road from Pawnee Avenue to the south city limits	45
Seneca Avenue from Maple Street to Kellogg Street	35
Seneca Avenue from Kellogg Street to the south city limits	40
Seventeenth Street North from Hillside Avenue to Brainard Street	35
Seventeenth Street North from Brainard to Oliver Street	40
Seventy-first Street South from Cider Street to the east city limits	50
Sixty-first Street North from the east city limits to the west city limits	40
Southeast Boulevard (K-15) from the southeast city limits to Pawnee Avenue	50
Southeast Boulevard (K-15) from Pawnee Avenue to Zimmerly Street extended	45
Southwest Boulevard (K-42) from ~~the intersection of~~ Kellogg ~~Avenue~~ (U.S. 54) to McCormick Avenue	35
Southwest Boulevard (K-42) from McCormick Avenue to the west city limits	50
Taft Avenue from Mid-Continent Road to Julia Street	40
Thirteenth Street North from the east city limits to Governeour Road	40
Thirteenth Street North from Governeour Road to Mosley Avenue	35
Thirteenth Street North from North River Boulevard to Zoo Boulevard	35
Thirteenth Street North: ~~those~~ portions west of the Flood Control right-of-way and within the city limits	40
Thirty-first Street South from Broadway Avenue to West Street	35
Thirty-first Street South from K-15 (Southeast Boulevard) to Oliver Street ~~George Washington Boulevard~~	40
Thirty-third Street North from Broadway Avenue to Arkansas Avenue	35
Thirty-seventh Street North from Womer Drive to Amidon Avenue	35
Thirty-seventh Street North from Amidon Avenue to Broadway Avenue	40
Thirty-seventh Street North from Broadway Avenue to a point 725 feet east of St. Francis	35
Thirty-seventh Street North from a point 725 feet east of St. Francis to Oliver Street	40
Thirty-seventh Street North from Woodlawn Avenue to the east city limits	40
Thirty-seventh Street North from 1/2 mile west of Hoover to the west city limits	40
Thirty-ninth Street North from Toben to Webb Road	40
Toben from Thirty-seventh Street North to Thirty-ninth Street North	40
Towne East Drive Parkway from Douglas to Kellogg	35
Turnpike Drive from Thirty-first Street to the south city limits	35
Twenty-first Street North from Broadway Avenue to Hillside Avenue	35
Twenty-first Street North from Hillside Avenue to the east city limits	40
Twenty-first Street North from Amidon Avenue to Shelton Avenue	35

Twenty-first Street North from Amidon Avenue to West Street	40
Twenty-first Street North from Hoover Street to 1/4 mile east of Hoover Street	45
Twenty-first Street North from Ridge Road to the west city limits	~~45~~ 40
Twenty-fifth Street North from I-235 to Amidon Avenue	35
~~Twenty-fourth Street from Jardine Drive to Horn Avenue~~	~~15~~
Twenty-ninth Street North from Hoover Street to the west city limits	40
Twenty-ninth Street North from Amidon Avenue to Broadway Avenue	35
Twenty-ninth Street North from Broadway Avenue east through I-135 interchange to I-135 northbound on-off ramps	40
Twenty-ninth Street North from Oliver Street to Webb Road	40
Tyler Road from the north city limits to Harry Street	40
Tyler Road from Harry Street to the south city limits	50
U.S. 54 (Kellogg) from the west city limits to the east city limits:	
From the west city limits to ~~Woodlawn~~ Rock Road (Eastbound)	60
From ~~Woodlawn~~ Rock Road to ~~Governeour~~ Cypress (Eastbound)	40
From ~~Governeour east to~~ Cypress to the West city limits (Westbound)	~~35~~ 60
From Cypress to 1/4 mile east of centerline of Webb Road	45
From 1/4 mile east of centerline of Webb Road to Zelta	55
From Zelta to the east city limits	60
Washington Avenue (K-15) from Zimmerly Street to Gilbert Street	35
Webb Road from the north city limits to ~~south city limits~~ 1000' south of Forty-second Street North	~~40~~ 45
Webb Road from 1000' south of Forty-second Street North to the South city limits	40
Westdale Drive from Zoo Boulevard to West Street	40
West Street from the North city limits to Twenty-first Street North	45
West Street from Twenty-first Street North to Thirteenth Street North	40
West Street from Thirteenth Street North to Harry Street	35
West Street from Harry Street to the south city limits	40
Womer Drive from Thirty-third Street North to the south side of I-235	45
Woodlawn Avenue from the north city limits to Thirteenth Street North	40
Woodlawn Avenue from Thirteenth Street North to the south city limits	35
Yosemite Drive from Tyler Road to 400' east of Glacier Drive	40
Zoo Boulevard from the north city limits to Central Avenue	40

Section 2. The original of Section 11.24.040 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. 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 _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law and City Attorney

(First Published in The Wichita Eagle on September 24, 2010)

August 2010

ORDINANCE NO. 48-825

AN ORDINANCE AMENDING SECTION 11.24.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF SPEEDING AND REPEAL OF THE ORIGINAL SECTION 11.24.040

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

Section 1. 11.24.040 of the Code of the City of Wichita, Kansas, shall read as follows:

Sec. 11.96.010. Speed limits.
In accordance with the provisions of Section 11.24.040 of this Code, and when signs are erected giving notice thereof, the maximum speed limit, except as provided for in Section 11.20.150, should be as set forth in this schedule upon those streets or portions thereof, or areas of street system and at the time specified herein.

	Maximum Speed Limits Miles Per Hour
A. Areas of Street Systems Affected:	
All other streets within the city limits other than those listed within subsection B of this section	30
B. Name of Street and Portion Affected:	
Airport Road from Kellogg Avenue to Harry Street	40
Amidon Avenue from Thirty-third Street North to Twenty-ninth Street North	40
Amidon Avenue from Twenty-ninth Street North to Twenty-first Street North	35
Amidon Avenue from Twenty-first Street North to Seventeenth Street North extended	40
Arkansas Avenue from Twenty-ninth Street North to Forty-sixth Street North	35
Arkansas Avenue from Forty-sixth Street North to north city limits	40
Armour Drive from Kellogg Avenue to Lincoln Street	35
Broadway Avenue from the north city limits to the south city limits:	
1. From the north city limits to Twenty-first Street North	40
2. From Pawnee Avenue to Patterson Avenue	35
3. From Patterson Avenue to Forty-seventh Street South	40
4. From Forty-seventh Street South to south city limits	45
Central Avenue from the west city limits to the east city limits:	
1. From west city limits to McLean Blvd	40

2. From Nims Street to Waco Street	35
3. From Washington Street to Oliver	35
4. From Oliver to east city limits	40
Cider Street from 350' east of Minnesota Avenue to Grove Street	40
Cider Street from Grove Street to Seventy-first Street South	50
Douglas Avenue from Washington Avenue to Edgemoor Drive	35
Douglas Avenue from Eastborough city limits to Webb Road	40
Douglas Avenue from West Street to Seneca Street	35
Edwards Avenue from McCormick Avenue to Maple Street	35
Fifty-fifth Street South from the west city limits to Hydraulic Avenue	40
Fifty-third Street North from the west city limits to the east city limits	40
Forty-fifth Street North from Oliver Street to the west city limits	45
Forty-fifth Street North from Rock Road to east city limits	40
Forty-seventh Street South from the west city limits to the east city limits	40
Forty-third Street North from Webb Road to Lindberg Street	40
George Washington Boulevard from Lincoln Street to Thirty-first Street South	40
Greenwich Road from the north city limits to the south city limits	40
Grove Street from Central Avenue to Kellogg Street	35
Grove Street from Kellogg Street to Lincoln Street	40
Grove Street from Cider Street to Sixty-third Street South	50
Harry Street from Airport Road to Woodchuck	40
Harry Street from K-42 (Southwest Boulevard) to West Street	40
Harry Street from Southeast Boulevard (K-15) to Hydraulic Avenue	35
Harry Street from Hydraulic Avenue to One-hundred Twenty-seventh Street East	40
Harry Street from One-Hundred Twenty-seventh Street East Avenue to the East city limits	40
Hillside Avenue from Ninth Street North to Twenty-seventh Street North	35
Hillside Avenue from Twenty-seventh Street North to Thirty-seventh Street North	40
Hillside Avenue from Thirty-seventh Street North to Forty-fifth Street North	50
Hillside Avenue from Forty-fifth Street North to the North city limits	45
Hillside Avenue from Douglas Avenue to Thirty-first Street South	35
Hoover Street from Pueblo Drive to the south city limits	45
Hoover Street from Twenty-first Street North to the north city limits	35
Hydraulic Avenue from I-135 northbound on-off ramps to the north city	40

limits		
Hydraulic Avenue from K-15 (Southeast Boulevard) to Thirty-First Street South	35	
Hydraulic Avenue from Thirty-first Street South to the south city limits	40	
	Max.	Min.
I-135 from the north city limits to the south city limits	60	40
I-235 from the north city limits to the south city limits	65	40

	Max.
K-96 from I-135 to 1/2 mile west of Hillside Avenue	55
K-96 from 1/2 mile west of Hillside Avenue to the east city limits	65
Kellogg Drive from One-hundred Nineteenth Street West to Mid-Continent Road	40
Kellogg Drive from Mid-Continent Road to Hoover	35
Kellogg Drive from Oliver Street to Eastern	35
Learjet Way from Mid-Continent Road to 2000' west of Mid-Continent Road	40
Lincoln Street from Rock Road to Grove Street	35
Lincoln Street from Grove Street to Hydraulic Avenue	40
Lincoln Street from Hydraulic Avenue to Osage Street	35
Lindberg Street from Thirty-seventh Street North to Forty-third Street North	40
MacArthur Road from the west city limits to the Big Arkansas River	40
Maize Road from the north city limits to 1000’ south of Twenty-ninth Street North	45
Maize Road from 1000’ South of Twenty-ninth Street North to Carr Street	40
Maize road from Carr Street to the South city limits	45
Maple Street from the west city limits to Country View	50
Maple Street from Country View to Sheridan	40
Maple Street from Sheridan to Seneca Avenue	35
McCormick Avenue from Osage Street to West Street	35
McLean Boulevard from Seventeenth Street North extended to Seneca Avenue	40
McLean Boulevard from Seneca Avenue to Taft Avenue	35
McLean Boulevard from Taft Avenue to Thirtieth Street South	40
Meridian Avenue from the south city limits to May Avenue	40
Meridian Avenue from May Avenue to University Avenue extended	35
Meridian Avenue (North Meridian Avenue) from the south side of I-235 to the north city limits	45

Mid-Continent Road from University Avenue to Harry Street	40
Mosley Avenue from Murdock Avenue to Twenty-first Street North	35
Mt. Vernon Road from Woodlawn Avenue to Grove Street	35
Mt. Vernon Road from Grove Street to Hydraulic Avenue	40
Mt. Vernon Road from Hydraulic Avenue To K-15 (Southeast Blvd)	35
Murdock Avenue from Nims Avenue to North River Boulevard	20
Norman Avenue from K-42 (Southwest Boulevard) to MacArthur Road	35
Ninth Street North from Grove Street to southbound ramps of I-135	35
Ohio Avenue from Twenty-sixth Street North to Thirty-seventh Street North	35
Oliver Street from the north city limits to the south city limits:	
1. From the north city limits to Seventeenth Street	40
2. From Seventeenth Street to Kinkaid Street	35
3. From Kinkaid Street to the south city limits	40
One-hundred Nineteenth Street West from the north city limits to Maple Street	40
One-hundred Nineteenth Street West from Maple Street to the south city limits	45
One-hundred Twenty-seventh Street East from the north city limits to the south city limits	45
One hundred thirty-fifth street west from the north city limits to the south city limits	40
One-hundred Fifty-first Street west from the North city limits to the South city limits	40
Opportunity Drive	20
Orient Boulevard from Seneca Avenue to Meridian Avenue	35
Pawnee Avenue from West Street to Seneca Avenue	40
Pawnee Avenue from Seneca Avenue to Hillside Avenue	35
Pawnee Avenue from Hillside Avenue to the east city limits	40
Pueblo Drive from Hoover Street to Airport Road	40
Ridge Road from University Avenue to 800' north of Twenty-ninth Street North	40
Ridge Road from 800' north of Twenty-ninth Street North to Thirty-seventh Street North	45
Ridge Road from Thirty-seventh Street North to the North city limits	50
Rock Road from the north city limits to Thirty-seventh Street North	35
Rock Road from Thirty-seventh Street North to Pawnee Avenue	40
Rock Road from Pawnee Avenue to the south city limits	45
Seneca Avenue from Maple Street to Kellogg Street	35
Seneca Avenue from Kellogg Street to the south city limits	40
Seventeenth Street North from Hillside Avenue to Brainard Street	35
Seventeenth Street North from Brainard to Oliver Street	40
Seventy-first Street South from Cider Street to the east city limits	50

Sixty-first Street North from the east city limits to the west city limits	40
Southeast Boulevard (K-15) from the southeast city limits to Pawnee Avenue	50
Southeast Boulevard (K-15) from Pawnee Avenue to Zimmerly Street extended	45
Southwest Boulevard (K-42) from Kellogg (U.S. 54) to McCormick Avenue	35
Southwest Boulevard (K-42) from McCormick Avenue to the west city limits	50
Taft Avenue from Mid-Continent Road to Julia Street	40
Thirteenth Street North from the east city limits to Governeour Road	40
Thirteenth Street North from Governeour Road to Mosley Avenue	35
Thirteenth Street North from North River Boulevard to Zoo Boulevard	35
Thirteenth Street North: portions west of the Flood Control right-of-way and within the city limits	40
Thirty-first Street South from Broadway Avenue to West Street	35
Thirty-first Street South from K-15 (Southeast Boulevard) to Oliver Street	40
Thirty-third Street North from Broadway Avenue to Arkansas Avenue	35
Thirty-seventh Street North from Womer Drive to Amidon Avenue	35
Thirty-seventh Street North from Amidon Avenue to Broadway Avenue	40
Thirty-seventh Street North from Broadway Avenue to a point 725 feet east of St. Francis	35
Thirty-seventh Street North from a point 725 feet east of St. Francis to Oliver Street	40
Thirty-seventh Street North from Woodlawn Avenue to the east city limits	40
Thirty-seventh Street North from 1/2 mile west of Hoover to the west city limits	40
Thirty-ninth Street North from Toben to Webb Road	40
Toben from Thirty-seventh Street North to Thirty-ninth Street North	40
Towne East Drive Parkway from Douglas to Kellogg	35
Turnpike Drive from Thirty-first Street to the south city limits	35
Twenty-first Street North from Broadway Avenue to Hillside Avenue	35
Twenty-first Street North from Hillside Avenue to the east city limits	40
Twenty-first Street North from Amidon Avenue to Shelton Avenue	35
Twenty-first Street North from Amidon Avenue to West Street	40
Twenty-first Street North from Hoover Street to 1/4 mile east of Hoover Street	45
Twenty-first Street North from Ridge Road to the west city limits	40
Twenty-fifth Street North from I-235 to Amidon Avenue	35
Twenty-ninth Street North from Hoover Street to the west city limits	40
Twenty-ninth Street North from Amidon Avenue to Broadway Avenue	35
Twenty-ninth Street North from Broadway Avenue east through I-135 interchange to I-135 northbound on-off ramps	40
Twenty-ninth Street North from Oliver Street to Webb Road	40

Tyler Road from the north city limits to Harry Street	40
Tyler Road from Harry Street to the south city limits	50
U.S. 54 (Kellogg) from the west city limits to the east city limits:	
From the west city limits to Rock Road (Eastbound)	60
From Rock Road to Cypress (Eastbound)	40
From Cypress to the West city limits (Westbound)	60
From Cypress to 1/4 mile east of centerline of Webb Road	45
From 1/4 mile east of centerline of Webb Road to Zelta	55
From Zelta to the east city limits	60
Washington Avenue (K-15) from Zimmerly Street to Gilbert Street	35
Webb Road from the north city limits to 1000' south of Forty-second Street North	45
Webb Road from 1000' south of Forty-second Street North to the South city limits	40
Westdale Drive from Zoo Boulevard to West Street	40
West Street from the North city limits to Twenty-first Street North	45
West Street from Twenty-first Street North to Thirteenth Street North	40
West Street from Thirteenth Street North to Harry Street	35
West Street from Harry Street to the south city limits	40
Womer Drive from Thirty-third Street North to the south side of I-235	45
Woodlawn Avenue from the north city limits to Thirteenth Street North	40
Woodlawn Avenue from Thirteenth Street North to the south city limits	35
Yosemite Drive from Tyler Road to 400' east of Glacier Drive	40
Zoo Boulevard from the north city limits to Central Avenue	40

Section 2. The original of Section 11.24.040 of the Code of the City of Wichita, Kansas, is hereby repealed.

Section 3. 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 21st day of September, 2010.

_____

Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law and City Attorney

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: An Ordinance Amending Section 5.88 of the Code of the City of Wichita, Kansas, pertaining to Unlawful Use of Weapons.

INITIATED BY: Police Department

AGENDA: New Business

Recommendation: Approve the first reading of the ordinance.

Background: During the 2010 legislative session, the State of Kansas passed Senate Bill 497 which amended K.S.A. 21-4201, pertaining to unlawful use of weapons. Section 5.88 of the Code of the City of Wichita, contains similar provisions to state statute. The amendments to state statute clarified that a person could possess an assisted opening pocket knife, operated by hand pressure applied to a spring, detent, or device through the blade of the knife. It is recommended that the City Code be amended to parallel the provision regarding possession of these knives.

Analysis: Amendments to Section 5.88.010 are required to clarify the legality of assisted opening pocket knives.

Financial Considerations: None.

Goal Impact: Provide a Safe and Secure Community. This revision will allow the Police Department to enforce violations of this ordinance. Amendments to this ordinance would specifically allow the possession of assisted opening pocket knives.

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

Recommendations/Actions: It is recommended that the City Council approve the amendments and place the ordinance on first reading.

Attachment: Delineated copy of the ordinance.

(First Published in The Wichita Eagle on September 24, 2010)

08/27/2010

ORDINANCE NO. 48-826

AN ORDINANCE AMENDING SECTION 5.88.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF UNLAWFUL USE OF WEAPONS AND REPEAL OF THE ORIGINAL SECTION 5.88.010

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

SECTION 1. Section 5.88.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

(1) Unlawful use of a weapon is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement. This subsection shall not prohibit an ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the

knife to overcome the bias towards closure to assist in the opening of the knife;

(b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nun-chucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(c) Carrying unconcealed on one's person or in any vehicle under one's immediate control, with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(d) Carrying any pistol, revolver or other firearm concealed on one's person, while on property open to the public, except when on one's land or in one's abode or fixed place of business;

(e) Carrying on one's person any unconcealed, loaded firearm, while on property open to the public, except when on one's land or in one's abode or fixed place of business;

(f) Carrying in any vehicle under one's immediate control, while on property open to the public, any loaded firearm, except when on one's land or in one's abode or fixed place of business;

(g) Carrying in any air, land or water vehicle an unloaded firearm that is not encased in a container which completely encloses the firearm;

(h) Carrying a loaded or unloaded firearm in a courtroom or within City Hall;

(i) Drawing a pistol, revolver, knife or any other deadly weapon upon any person.

(j) As used in this section, “throwing star” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(2) Subsections (1)(a), (b), (c), (d), (e), (f) and (g), (h), and (i) of this subsection shall not apply to or affect any of the following:

(a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the

detention of persons accused or convicted of a crime, while acting within the scope of their authority;

(c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(e) Qualified law enforcement officers or qualified retired law enforcement officers pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 18 U.S.C. 926C and amendments thereto.

(3) Subsection (1)(d), (e) and (f) of this section shall not apply to or affect the following:

(a) Watchmen, while actually engaged in the performance of the duties of their employment;

(b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to

K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(e) Special deputy sheriffs described in K.S.A. 2001 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(4) Subsection (1)(i) of this section shall not apply to or affect historical re-enactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or his designee.

(5) Subsection (1) (d), (e), (f), and (g) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(6) Subsections 1(d), 1 (f), and 1 (g) shall not apply to:

(a) any person carrying a concealed weapon as authorized by K.S.A. 2008 Supp., 75-7c01 through K.S.A. 75-7c17, and amendments thereto.

(b) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. The provisions of this paragraph shall not apply to any person not in compliance with Chapter 92, Section 4, of 2009 Session Laws of Kansas, and amendments thereto.

(7) Subsection 1 (d) shall not apply to licensed hunters or fishermen, while engaged in hunting or fishing;

(8) Subsection 1 (h) shall not apply to individuals employed as security officers by the City of Wichita, who are authorized by the Chief of Police, with the approval of the City Manager, to carry firearms, while acting within the scope of their authority as a security officer for the City of Wichita.

(9) It shall be a defense that the defendant is within an exemption.

(10) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(11) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation when no longer needed for evidentiary purposes, shall, in the discretion of the trial court, be:

(i) Destroyed:

(ii) Forfeited to the Wichita Police Department for use within the police department, for sale to a properly licensed federal

firearms dealer or for trading to a properly licensed federal firearms dealer by the police department for other new or used firearms or accessories for the Police Department's use; or

(iii) Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory.

If weapons are sold as authorized above, the proceeds from any such sale shall be credited to the asset seizure and forfeiture fund of the Wichita Police Department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section other than subdivision (a) of this subsection shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsection (9)(a) and (b) of this section.

SECTION 2. The original of Section 5.88.010 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 21st day of September, 2010.

_____
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 08/27/2010

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 5.88.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF UNLAWFUL USE OF WEAPONS AND REPEAL OF THE ORIGINAL SECTION 5.88.010

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

SECTION 1. Section 5.88.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

(1) Unlawful use of a weapon is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement~~;~~. This subsection shall not prohibit an ordinary pocket knife which has a spring, detent or other device which creates a bias towards closure of the blade and which requires hand pressure applied to such spring, detent or device through the blade of the

knife to overcome the bias towards closure to assist in the opening of the knife;

(b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, ~~slungshot~~ slingshot, nightstick, nun-chucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(c) Carrying unconcealed on one's person or in any vehicle under one's immediate control, with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(d) Carrying any pistol, revolver or other firearm concealed on one's person, while on property open to the public, except when on one's land or in one's abode or fixed place of business;

(e) Carrying on one's person any unconcealed, loaded firearm, while on property open to the public, except when on one's land or in one's abode or fixed place of business;

(f) Carrying in any vehicle under one's immediate control, while on property open to the public, any loaded firearm, except when on one's land or in one's abode or fixed place of business;

(g) Carrying in any air, land or water vehicle an unloaded firearm that is not encased in a container which completely encloses the firearm;

(h) Carrying a loaded or unloaded firearm in a courtroom or within City Hall;

(i) Drawing a pistol, revolver, knife or any other deadly weapon upon any person.

(j) As used in this section, “throwing star” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(2) Subsections (1)(a), (b), (c), (d), (e), (f) and (g), (h), and (i) of this subsection shall not apply to or affect any of the following:

(a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of a crime, while acting within the scope of their authority;

(c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(e) Qualified law enforcement officers or qualified retired law enforcement officers pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 18 U.S.C. 926C and amendments thereto.

(3) Subsection (1)(d), (e) and (f) of this section shall not apply to or affect the following:

(a) Watchmen, while actually engaged in the performance of the duties of their employment;

(b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(e) Special deputy sheriffs described in K.S.A. 2001 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(4) Subsection (1)(i) of this section shall not apply to or affect historical re-enactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or his designee.

(5) Subsection (1) (d), (e), (f), and (g) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the

name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(6) Subsections 1(d), 1 (f), and 1 (g) shall not apply to:

(a) any person carrying a concealed weapon as authorized by K.S.A. 2008 Supp., 75-7c01 through K.S.A. 75-7c17, and amendments thereto.

(b) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. The provisions of this paragraph shall not apply to any person not in compliance with Chapter 92, Section 4, of 2009 Session Laws of Kansas, and amendments thereto.

(7) Subsection 1 (d) shall not apply to licensed hunters or fishermen, while engaged in hunting or fishing;

(8) Subsection 1 (h) shall not apply to individuals employed as security officers by the City of Wichita, who are authorized by the Chief of Police, with the approval of the City Manager, to carry firearms, while acting within the scope of their authority as a security officer for the City of Wichita.

~~(8)~~ (9) It shall be a defense that the defendant is within an exemption.

~~(9)~~ (10) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

~~(10)~~ (11) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation when no longer needed for evidentiary purposes, shall, in the discretion of the trial court, be:

(i) Destroyed:

(ii) Forfeited to the Wichita Police Department for use within the police department, for sale to a properly licensed federal firearms dealer or for trading to a properly licensed federal firearms dealer by the police department for other new or used firearms or accessories for the Police Department's use; or

(iii) Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory.

If weapons are sold as authorized above, the proceeds from any such sale shall be credited to the asset seizure and forfeiture fund of the Wichita Police Department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section other than subdivision (a) of this subsection shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsection (9)(a) and (b) of this section.

SECTION 2. The original of Section 5.88.010 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. 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 _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

SUBJECT: Amendments to Section 1.04.070 of the Code of the City of Wichita, Kansas pertaining to costs and witness fees in cases before the Municipal Court.

INITIATED BY: Municipal Court

AGENDA: New Business

Recommendation: Approve the Mayor's Request for Declaration of Emergency and pass the ordinance amending Section 1.04.070 of the Code of the City of Wichita, on a single reading.

Background: During the last legislative session, the Kansas Legislature increased the amount of court costs to be assessed in Municipal Court. There was a one dollar increase in costs to be assessed for the Department of Corrections Forensic Psychologist Fund. The increased costs became effective on July 1, 2010.

Analysis: The amendments should be passed, in order to comply with the mandates of the state statutes pertaining to court costs to be assessed by municipalities.

Financial Considerations: None.

Goal Impact: Promote Safe and Secure Neighborhoods.

Legal Considerations: The Law Department drafted the amended ordinance and approved it as to form.

Recommendation/Action: Declare a public emergency and adopt the ordinance making the recommended amendments to City Code section 1.04.070.

Attachments: Ordinance 1.04.070
Ordinance 1.04.070 Delineated
Declaration of Emergency

First Published in The Wichita Eagle on September 17, 2010

08/26/2010

ORDINANCE NO. 48-820

AN ORDINANCE AMENDING SECTION 1.04.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MUNICIPAL COURT COSTS AND WITNESS FEES AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 1.04.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Costs and witness fees in cases before the Municipal Court.**

(a) The sum of fifty-nine dollars shall be assessed as court costs against each person charged with such a violation of any of the ordinances of this city, unless found not guilty. The fifty-nine dollars in court costs shall include all costs required by state statute, as well as a three dollar domestic violence program fee and a four dollar public defender fee. However, this subsection shall not apply to persons who make payment to avoid prosecution of a charge that involves a parking violation as provided in Section 11.92.040 of this Code.

(b) The sum of two dollars shall be assessed as a court technology fee against each person charged with such a violation of any of the ordinances of this city, unless found not guilty. The court technology fee is to be used by the court to help offset the cost to maintain and/or purchase technology enhancements, including but not limited to computer systems, computer networks, computer

hardware, computer software, imaging systems, electronic kiosks, electronic ticket writers and docket management systems for the City of Wichita Municipal Court System. However, this subsection shall not apply to persons who make payment to avoid prosecution of a charge that involves a parking violation as provided in Section 11.92.040 of this Code.

(c) For each person who is charged with a violation of any of the ordinances of this city and such matter is set for appearance, a charge of ten dollars will be assessed, unless found not guilty.

(d) For each continuance of any pre-trial appearance, trial, sentencing, disposition, or pre-sentence investigation granted at the request of the accused person, a cost of ten dollars shall be assessed against such accused person unless found not guilty.

(e) A cost of ten dollars shall be assessed for each extension of time to pay any fine, penalty or costs granted by the clerk of the municipal court at the request of an accused person.

(f) For each trial date attributable to the accused person for which subpoenas have been issued, and in addition to other costs provided for in this section, the sum of twenty-five dollars shall be assessed as court costs against such accused person, unless found not guilty by the court.

(g) In addition to other costs provided for in this section, the sum of ten dollars shall be assessed as court costs against each accused person who is found guilty and files a notice of appeal in district court.

(h) In addition to other court costs assessed pursuant to this section, fees and mileage for subpoenaed witnesses shall be assessed at the rate of ten dollars per day and forty cents per mile actually driven in excess of twenty miles.

(i) A cost of fifty dollars shall be assessed against each person for whom a municipal court bench warrant or show cause/probation violation warrant is ordered by the court for either failure to appear or failure to comply.

(j) A cost of fifty dollars shall be assessed against each person for whom a warrant is issued for failure to pay any fine, penalty or costs as provided in subsection (a) of this section.

(k) In addition to other court costs assessed pursuant to this section, the sum of twenty dollars shall be assessed as court costs against each accused person who fails to comply with a traffic citation, as set forth in Section 11.42.040(a) of this Code. This assessment shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) as amended, and as set forth in Section 11.42.040(c) of this Code, and shall be retained by the municipal court to be used to reimburse the court for expenses incurred in complying with the procedures required by state law. Such sum shall be assessed for each charge on which the person fails to make satisfaction, regardless of the disposition of the charge for which the citation was originally issued.

(l) In addition to any other court costs assessed pursuant to this section, the sum of five dollars shall be assessed as court costs against each accused person who fails to comply with a traffic citation as set forth in Section 11.42.040(a) of this Code. This assessment shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) and amendments thereto, and as set forth in Section 11.42.040(c) of this Code. This fee shall be retained by the municipal court to be used to reimburse expenses for mailing notice as mandated by Section 11.42.040(b) of this Code, and K.S.A. 8-2110(b), and amendments thereto.

(m) Each person placed under supervision of a probation officer shall pay a probation fee of one hundred fifty dollars for each probation case supervised, except that in any case in which there is a determination of indigency, the fee specified may be reduced or waived by the judge.

(n) For those misdemeanor offenses as set out in K.S.A. 21-2501 that require the individual be fingerprinted before final disposition of the case, a twenty dollar fingerprint fee will be assessed as costs.

(o) Should the court order urinalysis testing, a fee of twenty dollars per test shall be assessed to the defendant as costs.

(p) The assessment and imposition of the court costs pursuant to this section shall be mandatory and the court shall not waive, remit, suspend, parole, or otherwise excuse the payment thereof except as set forth in subparagraph (r).

(q) All court costs assessed and imposed by this section shall be paid no later than sixty days following imposition; provided that the court may extend the time for such payment to one hundred twenty days for good cause shown. In no case shall the court order the time for payment of court costs assessed pursuant to this section extended beyond one hundred twenty days from the date of initial imposition.

(r) In lieu of payment of court costs assessed pursuant to this section, the court may order that the defendant perform community service specified by the court only after the defendant has filed an affidavit of such defendant's financial condition in accordance with Section 1.04.210(e), and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the court costs required herein. If the court also finds

that such indigent defendant is unable to perform community service work, then the court may enter an order suspending the court costs imposed by this section.

(s) All court costs collected pursuant to this section shall be accounted for by the clerk of the municipal court and deposited to the general fund of the city and special trust fund with the exception of the two dollars court technology fee, which shall be deposited into the Court Technology Project Account."

SECTION 2. The original of Section 1.04.070 of the Code of the City of Wichita, Kansas, IS hereby repealed.

SECTION 3. 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 14th day of September, 2010.

_____
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 08/26/2010

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 104.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MUNICIPAL COURT COSTS AND WITNESS FEES AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 1. Section 1.04.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Costs and witness fees in cases before the Municipal Court.**

(a) The sum of ~~fifty-eight~~ fifty-nine dollars shall be assessed as court costs against each person charged with such a violation of any of the ordinances of this city, unless found not guilty. The ~~fifty-eight~~ fifty-nine dollars in court costs shall include all costs required by state statute, as well as a three dollar domestic violence program fee and a four dollar public defender fee. However, this subsection shall not apply to persons who make payment to avoid prosecution of a charge that involves a parking violation as provided in Section 11.92.040 of this Code.

(b) The sum of two dollars shall be assessed as a court technology fee against each person charged with such a violation of any of the ordinances of this city, unless found not guilty. The court technology fee is to be used by the court to help offset the cost to maintain and/or purchase technology enhancements,

including but not limited to computer systems, computer networks, computer hardware, computer software, imaging systems, electronic kiosks, electronic ticket writers and docket management systems for the City of Wichita Municipal Court System. However, this subsection shall not apply to persons who make payment to avoid prosecution of a charge that involves a parking violation as provided in Section 11.92.040 of this Code.

(c) For each person who is charged with a violation of any of the ordinances of this city and such matter is set for appearance, a charge of ten dollars will be assessed, unless found not guilty.

(d) For each continuance of any pre-trial appearance, trial, sentencing, disposition, or pre-sentence investigation granted at the request of the accused person, a cost of ten dollars shall be assessed against such accused person unless found not guilty.

(e) A cost of ten dollars shall be assessed for each extension of time to pay any fine, penalty or costs granted by the clerk of the municipal court at the request of an accused person.

(f) For each trial date attributable to the accused person for which subpoenas have been issued, and in addition to other costs provided for in this section, the sum of twenty-five dollars shall be assessed as court costs against such accused person, unless found not guilty by the court.

(g) In addition to other costs provided for in this section, the sum of ten dollars shall be assessed as court costs against each accused person who is found guilty and files a notice of appeal in district court.

(h) In addition to other court costs assessed pursuant to this section, fees and mileage for subpoenaed witnesses shall be assessed at the rate of ten dollars per day and forty cents per mile actually driven in excess of twenty miles.

(i) A cost of ~~thirty-five dollars~~ fifty dollars shall be assessed against each person for whom a municipal court bench warrant or show cause/probation violation warrant is ordered by the court for either failure to appear or failure to comply.

(j) A cost of fifty dollars shall be assessed against each person for whom a warrant is issued for failure to pay any fine, penalty or costs as provided in subsection (a) of this section.

(k) In addition to other court costs assessed pursuant to this section, the sum of twenty dollars shall be assessed as court costs against each accused person who fails to comply with a traffic citation, as set forth in Section 11.42.040(a) of this Code. This assessment shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) as amended, and as set forth in Section 11.42.040(c) of this Code, and shall be retained by the municipal court to be used to reimburse the court for expenses incurred in complying with the procedures required by state law. Such sum shall be assessed for each charge on which the person fails to make satisfaction, regardless of the disposition of the charge for which the citation was originally issued.

(l) In addition to any other court costs assessed pursuant to this section, the sum of five dollars shall be assessed as court costs against each accused person who fails to comply with a traffic citation as set forth in Section 11.42.040(a) of this Code. This assessment shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) and

amendments thereto, and as set forth in Section 11.42.040(c) of this Code. This fee shall be retained by the municipal court to be used to reimburse expenses for mailing notice as mandated by Section 11.42.040(b) of this Code, and K.S.A. 8-2110(b), and amendments thereto.

(m) Each person placed under supervision of a probation officer shall pay a probation fee of one hundred fifty dollars for each probation case supervised, except that in any case in which there is a determination of indigency, the fee specified may be reduced or waived by the judge.

(n) For those misdemeanor offenses as set out in K.S.A. 21-2501 that require the individual be fingerprinted before final disposition of the case, a twenty dollar fingerprint fee will be assessed as costs.

(o) Should the court order urinalysis testing, a fee of twenty dollars per test shall be assessed to the defendant as costs.

(p) The assessment and imposition of the court costs pursuant to this section shall be mandatory and the court shall not waive, remit, suspend, parole, or otherwise excuse the payment thereof except as set forth in subparagraph (r).

(q) All court costs assessed and imposed by this section shall be paid no later than sixty days following imposition; provided that the court may extend the time for such payment to one hundred twenty days for good cause shown. In no case shall the court order the time for payment of court costs assessed pursuant to this section extended beyond one hundred twenty days from the date of initial imposition.

(r) In lieu of payment of court costs assessed pursuant to this section, the court may order that the defendant perform community service specified by the court only after the defendant has filed an affidavit of such defendant's

financial condition in accordance with Section 1.04.210(e), and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the court costs required herein. If the court also finds that such indigent defendant is unable to perform community service work, then the court may enter an order suspending the court costs imposed by this section.

(s) All court costs collected pursuant to this section shall be accounted for by the clerk of the municipal court and deposited to the general fund of the city and special trust fund with the exception of the two dollars court technology fee, which shall be deposited into the Court Technology Project Account."

SECTION 2. The original of Section 1.04.070 of the Code of the City of Wichita, Kansas, IS hereby repealed.

SECTION 3. 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 _____, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit*, September 14, 2010, of an ordinance entitled:

ORDINANCE NO. _____

"AN ORDINANCE AMENDING SECTION 1.04.070 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MUNICIPAL COURT COSTS AND WITNESS FEES AND REPEALING THE ORIGINAL OF SAID SECTION."

The general nature of such emergency is to bring the City ordinance in line with a state statute which became effective July 1, 2010, requiring municipal courts to pay $1.00 to the Department of Corrections Forensic Psychologist Fund.

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 this _____ day of September, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Multi-Use Path along the Arkansas River from Garvey Park to Planeview Park (District III)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendations: Approve the project and the railroad crossing agreement.

Background: The Capital Improvement Program (CIP) includes a project for bike path improvements along the Arkansas River, between Garvey Park and Planeview Park, which will connect to recent bike path improvements along Gypsum Creek. District III Advisory Board sponsored a July 19, 2006, neighborhood hearing on the project. The Board voted 11-0 to recommend approval of the project.

Analysis: Approximately 4.5 miles of 10 feet wide multi-use path will be constructed between Garvey Park and Planeview Park, creating a loop connection between existing paths along the Arkansas River and Gypsum Creek. An agreement with the Burlington Northern Santa Fe (BNSF) Railroad Company has been prepared for authorization to cross the railway near K-15 and MacArthur.

Financial Considerations: The construction budget contained in the CIP is $1,700,000, with $700,000 paid by the City and $1,000,000 paid by Federal Grants administered by Kansas Department of Transportation. The funding source for the City share is General Obligation bonds. The cost of the railroad crossing is estimated at $131,000, and the City will be responsible for reimbursing the actual cost. Should the cost of the crossing improvements exceed this estimate by more than 25%, the two agencies have agreed to review the final cost.

Goal Impact: This project addresses the Efficient Infrastructure and Quality of Life goals by extending a multi-use path to connect three public parks, making them more accessible to the pedestrian public.

Legal Considerations: The authorizing resolution and railroad agreement have been approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the project, approve the railroad agreement, adopt the resolution and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, agreement, 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	Eng	7/28/2010	Multi-Use Path, from Fairway Park to Plainview Park

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NL-200424		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Multi-Use Path	$700,000		$1,000,000	$1,700,000
Totals	$700,000		$1,000,000	$1,700,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	x	
Ordered by WCC		

Remarks:

13. Recommendation: Approve the Project and Resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

132019

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-238

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT A MULTI-USE PATH ALONG THE ARKANSAS RIVER BETWEEN GARVEY PARK AND PLANEVIEW PARK (472-84932).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The design and construction of a multi-use path.

SECTION 2: The cost of the construction of the above described improvements is estimated to be One Million Seven Hundred Thousand Dollars ($1,700,000) exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements are not paid by Federal Grants, administered by the Kansas Department of Transportation, the City of Wichita, Kansas is authorized to issue general obligation bonds to pay such costs under the authority of K.S.A. 12-689 up to a maximum of $1,700,000, exclusive of the cost of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established and authorized by K.S.A. 13-1024c and City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

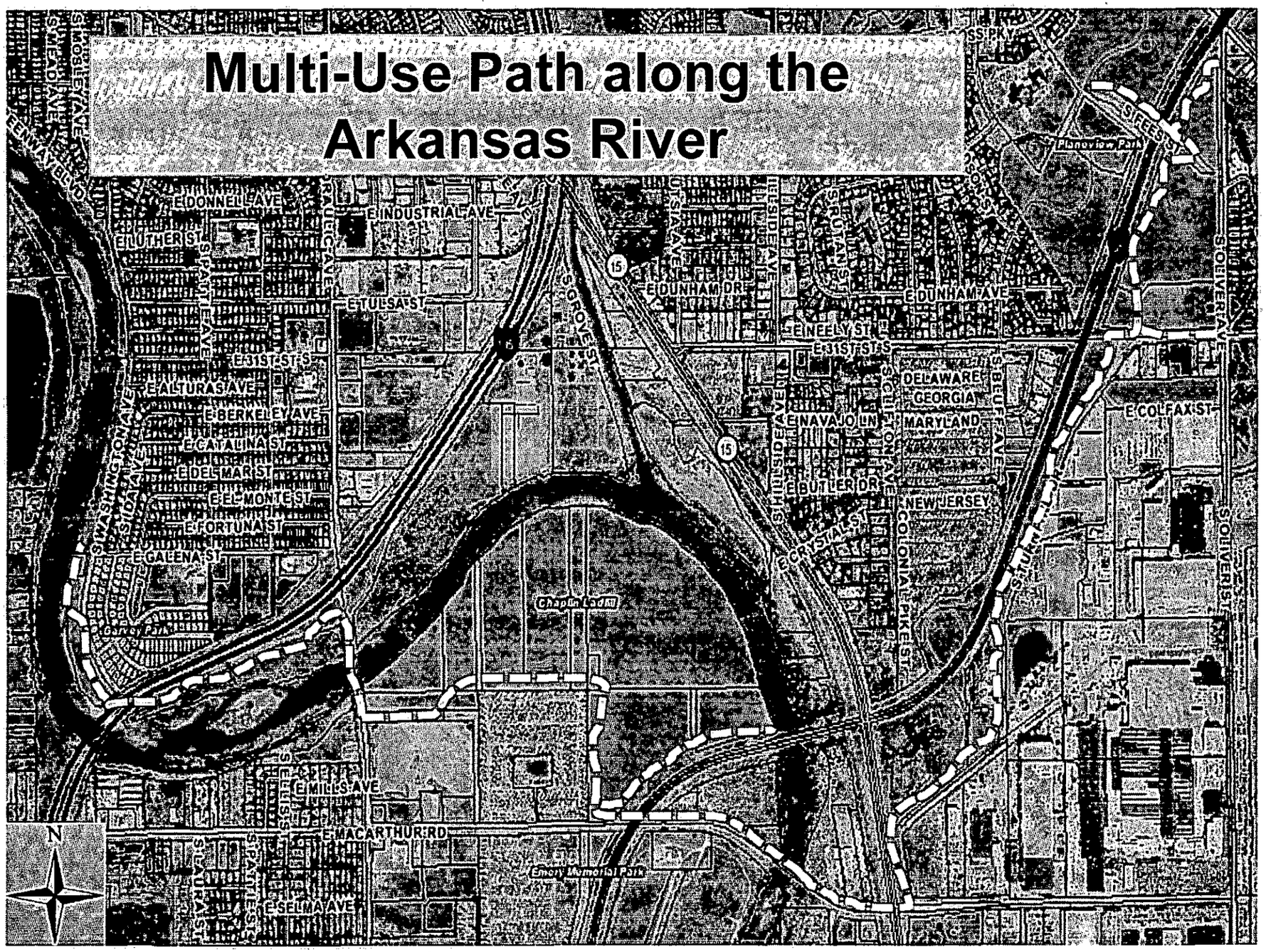
_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

Multi-Use Path along the Arkansas River



CROSSING SURFACE INSTALLATION AGREEMENT

BNSF RIGHT-OF-WAY
MacArthur Road, Wichita, KS.
DOT #009293L
LS 7400, MP217.3

This Crossing Surface Installation Agreement (hereinafter called, this "Agreement") is entered into effective as of _____, 2010, by and between The City of Wichita, (hereinafter called, "Agency") and The BNSF Railway Company (hereinafter called, the "Company").

WHEREAS, Company operates a freight transportation system by rail with operations throughout the United States and Canada; and

WHEREAS, Agency desires to install 3, 16' crossing surfaces and warning signs at DOT# 009293L, at MacArthur to accommodate a bike and hike trail;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Company Work.** The Company will extend install 3, 16' crossing surfaces and warning signs to the south of the existing roadway surface to accommodate the trail. The Company will perform all necessary track upgrades to accommodate the new crossing surfaces and warning signs.

2. **Payment; Invoicing.** Upon execution of this Agreement by both parties hereto, Company will send Agency an invoice detailing the total amount owed by Agency for the new crossing surfaces and warning signs.

Agency agrees to pay Company **100% of actual cost** for the crossing surfaces. Cost estimate is $117,191. Agency agrees to pay Company **100% of actual cost** for the warning signs. Cost estimate is $2,773. Agency agrees to pay Company **100% of actual cost** for flagging services for trail construction. Cost estimate is $10,427.

Should project overrun estimated cost by 25% or greater, Company will notify and send Agency an updated cost.

3. **Maintenance of the Crossing Surface.** After the installation of the new crossing surfaces are completed, the Company will maintain, at its own cost and expense, the crossing surfaces and warning signs in a satisfactory manner. Notwithstanding the preceding sentence, the Company shall be entitled to receive any contribution toward the cost of such maintenance made available by reason of any existing or future laws, ordinances, regulations, orders, grants, or other means or sources.

4. **Vehicular Traffic during Installation.** The Agency shall provide, at its own cost and expense, all necessary barricades, lights or traffic control devices for detouring vehicular traffic at the crossing during installation of the new crossing surfaces and warning signs.

5. **Drainage.** The Agency agrees to allow the Company to drain water from the crossing area into existing Agency storm sewers, if such storm sewers are available. Drain pipes and filter fabric necessary for such drainage will be furnished and installed by the Company.

Form 0108 Rev. 10/04

6. **Roadway Surfacing Work.** The Agency agrees to pave the sidewalk up to the crossing surfaces at its sole cost and expense.

7. **Term.** This Agreement begins on the effective date set forth above and remains in effect until completion of all work contemplated in this Agreement and Agency's payment of the amounts set forth in Section 2 above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first written above.

COMPANY:

The BNSF Railway Company:

By:_____
Printed Name: _____

Title: _____

AGENCY:

The City of Wichita, KS.

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, Director of Law

Form 0108 Rev. 10/04

crossbucks & Stop signs

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
WICHITA KS

LOCATION CONNELL TO MCARTHUR ROAD | DETAILS OF ESTIMATE | PLAN ITEM : 000152479 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

INSTALL CROSSBUCK SIGNS - LS 7400 - MP 217.33 - DOT 009293L - MCARTHUR RD - WICHITA, KS - ARKANSAS CITY SUB - KSE DIV - RDM N.ANDERSON - DE MARTIN

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 6/16/09
INSTALL NEW CROSSBUCK SIGNS, POSTS, RETRO REFLECTIVE STRIPS ON POSTS, 3 TRACK SIGNS, AND STOP SIGNS FOR HIKE AND BIKE TRAIL

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO CITY OF WICHITA, KS
BILLABLE: JILL BURTON, STATE OF KS BUREAU OF DESIGN, DWIGHT D EISENHOWER STATE OFFICE BUILDING, 700 SW HARRISON ST, TOPEKA KS, 66603

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS.
PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS.
THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

ADD CROSSBUCKS AT THE FOLLOWING LOCATION(S):

LS	MP	DOT	COUNTY	CITY	ROAD	#TRK
7400	217.33	009293L	SEDWICK	WICHITA	MCARTHUR RD	3

DESCRIPTION	QUANTITY	UM	COST	TOTAL $
**********				
LABOR				
**********				
PLACE CROSSBUCK(S)	16.0	MH	377	
PAYROLL ASSOCIATED COSTS			259	
EQUIPMENT EXPENSES			218	
DA LABOR OVERHEADS			403	
INSURANCE EXPENSES			60	
TOTAL LABOR COST			1,317	1,317
**********				
MATERIAL				
**********				
POST, SIGN, 6X6X16 FT WOOD POST	2.0	EA **	290	
SIGN, NO. 63, "EMERGENCY" WITH ALL HARDWARE	2.0	EA **	12	
SIGN, RAILROAD CROSSING, CROSSBUCK	2.0	ST **	204	
SIGN, STOP, HIGHWAY CROSSING - 30", RED	2.0	EA **	123	
1/4" x 3 hex head lag screw and 1/4 nylon flat washers	12.0	EA **	27	
REFLECTOR STRIPS - 2 PER POST	2.0	EA	63	
MATERIAL HANDLING			34	
USE TAX			41	
OFFLINE TRANSPORTATION			5	
TOTAL MATERIAL COST			799	799
**********				
OTHER				
**********				
EQUIPMENT RENTAL - AUGER $90	1.0	DAY	90	
EQUIPMENT RENTAL - PICKUP TRUCK $200	1.0	DAY	200	
EQUIPMENT RENTAL - TRAILER $90	1.0	DAY	90	
TOTAL OTHER ITEMS COST			380	380
PROJECT SUBTOTAL				2,496
CONTINGENCIES				249
BILL PREPARATION FEE				28

GROSS PROJECT COST	2,773
LESS COST PAID BY BNSF	0
TOTAL BILLABLE COST	2,773

flagging

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
CITY OF WICHITA KS

LOCATION: CONNELL TO MCARTHUR ROAD | DETAILS OF ESTIMATE | PLAN ITEM : 009293L-1 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - FLAGGING - LS 7400 - MP 217.3 - DOT 009293L - MCARTHUR RD - WICHITA, KS - ARKANSAS CITY SUB - RDM N.ANDERSON

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 7/2/09

FLAGGING ESTIMATE FOR INSTALLATION OF CROSSING SURFACES FOR HIKE AND BIKE TRAIL: ONE MAN, ONE TRUCK; 15 DAYS 8 HOURS A DAY.

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO CITY OF WICHITA KS.

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY	U/M	COST	TOTAL $
********** LABOR **********				
FLAGGING - PUBLIC CROSSING - OPER	120.0	MH	2,480	
PAYROLL ASSOCIATED COSTS			1,706	
EQUIPMENT EXPENSES			1,438	
DA LABOR OVERHEADS			2,653	
INSURANCE EXPENSES			396	
TOTAL LABOR COST			8,673	8,673
********** MATERIAL **********				
TOTAL MATERIAL COST			0	0
********** OTHER **********				
VEHICLE	15.0	DAY	1,500	
TOTAL OTHER ITEMS COST			1,500	1,500
PROJECT SUBTOTAL				10,173
CONTINGENCIES				150
BILL PREPARATION FEE				104
GROSS PROJECT COST				10,427
LESS COST PAID BY BNSF				0
TOTAL BILLABLE COST				10,427

crossing surfaces

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
KE MILLER ENGINEERIN

LOCATION CONNELL TO MCARTHUR ROAD | DETAILS OF ESTIMATE | PLAN ITEM : PTR0092931-1 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - CROSSING - GRADE - LS 7400 - MP 217.3 - DOT 009293L - MCARTHUR RD - WICHITA, KS - ARKANSAS CITY SUB - RDM N.ANDERSON - DE MARTIN

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 4/27/09; ADJUSTED ON 5/8/09
EXTEND 3 GRADE XINGS ON MCARTHUR ROAD. WORKSHEET 1 OF 3: TRACK 1.
THIS ESTIMATE WILL CONSIST OF 3 SEPARATE ESTIMATES. ONE FOR EACH TRACK. WILL BE INSTALLING 3 - 16' CONCRETE CROSSING SURFACES FOR PROPOSED BIKE/HIKE TRAIL.
RM WILL NEED 3 MEN FOR 2 DAYS AT 8 HOURS A DAY.

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO KE MILLER ENGINEERING
CONTACT: GUY POKHERL, 516 S MARKET, WICHITA, KS, 67202

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 5/8/09
RDM WANTS TO USE PANELS, DUE TO SIZE. 5/8/09

DESCRIPTION	QUANTITY	U/M	COST	TOTALS
********** LABOR **********				
PLACE FIELD WELDS - CAP	48.0	MH	1,093	
REPLACE PUBLIC CROSSING - TOTAL REHAB	32.0	MH	695	
REPLACE SIGNAL BONDING - CAP	5.0	MH	132	
SURFACE TRACK - REPLACEMENT - CAP	24.0	MH	565	
UNLOAD BALLAST - REPLACEMENT - CAP	6.0	MH	131	
UNLOAD CROSSING MATERIAL - PUBLIC - CAP	8.0	MH	174	
PAYROLL ASSOCIATED COSTS			1,918	
EQUIPMENT EXPENSES			1,613	
DA LABOR OVERHEADS			2,994	
INSURANCE EXPENSES			436	
TOTAL LABOR COST			9,751	9,751
********** MATERIAL **********				
BALLAST, MILL CREEK OK (SFW, KSE)	100.0	NT **	781	
TRACK PANEL, 136 LB 40 FT-, 10 FT TIES-PANDROL	1.0	EA **	4,873	
WELDKIT, GENERIC FOR ALL RAIL WEIGHTS	6.0	KT	426	
CONC 136 08-SEC WITH FILLER FOR 10' WOOD TIES	16.0	FT	3,316	
CONCRETE XING RAMP AND PANEL RESTRAINT.	1.0	ST	257	
ASPHALT BY CONTRACTOR	1.0	LS	7,500	
SIGNAL MATERIAL	0.6	DAY	105	
MATERIAL HANDLING			860	
ONLINE TRANSPORTATION			1,550	
USE TAX			1,083	
OFFLINE TRANSPORTATION			163	
TOTAL MATERIAL COST			20,914	20,914
********** OTHER **********				
LEASED EQUIPMENT WITH OPERATOR	0.6	DAY	900	
TRAFFIC CONTROL	1.0	LS	5,000	

TOTAL OTHER ITEMS COST	5,900	5,900
PROJECT SUBTOTAL		36,565
CONTINGENCIES		3,620
BILL PREPARATION FEE		402
GROSS PROJECT COST		40,587
LESS COST PAID BY BNSF		0
TOTAL BILLABLE COST		40,587

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
KE MILLER ENGINEERIN

LOCATION : CONNELL TO MCARTHUR ROAD | DETAILS OF ESTIMATE | PLAN ITEM : PTR009293L-2 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - CROSSING - GRADE - LS 7400 - MP 217.3 - DOT 009293L - MCARTHUR RD - WICHITA, KS - ARKANSAS CITY SUB - RDM N.ANDERSON - DE MARTIN

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 4/27/09; ADJUST 5/8/09
EXTEND 3 GRADE XINGS ON MCARTHUR ROAD. WORKSHEET 2 OF 3: TRACK 2
THIS ESTIMATE WILL CONSIST OF 3 SEPARATE ESTIMATES, ONE FOR EACH TRACK. WILL BE INSTALLING 3 - 16' CONCRETE CROSSING SURFACES FOR PROPOSED BIKE/HIKE TRAIL.
RM WILL NEED 3 MEN FOR 2 DAYS AT 8 HOURS A DAY.

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO KE MILLER ENGINEERING
CONTACT: GUY POKHERL, 516 S MARKET, WICHITA, KS. 67202

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY	U/M	COST	TOTAL $
**********				
LABOR				
**********				
PLACE FIELD WELDS - CAP	48.0	MH	1,093	
REPLACE PUBLIC CROSSING - TOTAL REHAB	32.0	MH	695	
REPLACE SIGNAL BONDING - CAP	5.0	MH	132	
SURFACE TRACK - REPLACEMENT - CAP	24.0	MH	565	
UNLOAD BALLAST - REPLACEMENT - CAP	6.0	MH	131	
UNLOAD CROSSING MATERIAL - PUBLIC - CAP	8.0	MH	174	
PAYROLL ASSOCIATED COSTS			1,918	
EQUIPMENT EXPENSES			1,613	
DA LABOR OVERHEADS			2,994	
INSURANCE EXPENSES			436	
TOTAL LABOR COST			9,751	9,751
**********				
MATERIAL				
**********				
BALLAST, MILL CREEK OK (SFW; KSE)	100.0	NT **	781	
TRACK PANEL, 136 LB 40 FT - 10 FT TIES-PANDROL	1.0	EA **	4,873	
WELDKIT, GENERIC FOR ALL RAIL WEIGHTS	6.0	KT	426	
CONC 136 08-SEC WITH FILLER FOR 10' WOOD TIES	16.0	FT	3,316	
CONCRETE XING RAMP AND PANEL RESTRAINT,	1.0	ST	257	
SIGNAL MATERIAL	0.7	DAY	123	
MATERIAL HANDLING			486	
ONLINE TRANSPORTATION			1,550	
USE TAX			612	
OFFLINE TRANSPORTATION			88	
TOTAL MATERIAL COST			12,512	12,512
**********				
OTHER				
**********				
LEASED EQUIPMENT WITH OPERATOR	0.7	DAY	1,050	
TRAFFIC CONTROL	1.0	LS	5,000	
TOTAL OTHER ITEMS COST			6,050	6,050
PROJECT SUBTOTAL				28,313
CONTINGENCIES				2,795
BILL PREPARATION FEE				312
GROSS PROJECT COST				31,420

LESS COST PAID BY BNSF	0
TOTAL BILLABLE COST	31,420

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
KE MILLER ENGINEERIN

LOCATION CONNELL TO MCARTHUR ROAD | DETAILS OF ESTIMATE | PLAN ITEM : PTR009293L-3 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - CROSSING - GRADE - LS 7400 - MP 217.3 - DOT 009293L - MCARTHUR RD - WICHITA, KS - ARKANSAS CITY SUB - RDM N.ANDERSON

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER: J.CALDWELL 4/27/09

THIS ESTIMATE WILL CONSIST OF 3 SEPARATE ESTIMATES; ONE FOR EACH TRACK. WILL BE INSTALLING 3 - 16' CONCRETE CROSSING SURFACES FOR PROPOSED BIKE/HIKE TRAIL.
RM WILL NEED 3 MEN FOR 2 DAYS AT 8 HOURS A DAY.
EXTEND 3 GRADE XINGS ON MCARTHUR ROAD. WORKSHEET 3 OF 3: TRACK 3
BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO KE MILLER ENGINEERING
CONTACT: GUY POKHERL, 516 S MARKET, WICHITA, KS, 67202

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION.	QUANTITY	U/M	COST	TOTAL $.
********** LABOR **********				
PLACE FIELD WELDS - CAP	48.0	MH	1,093	
REPLACE PUBLIC CROSSING - TOTAL REHAB	32.0	MH	695	
REPLACE SIGNAL BONDING - CAP	5.0	MH	132	
SURFACE TRACK - REPLACEMENT - CAP	24.0	MH	565	
UNLOAD BALLAST - REPLACEMENT - CAP	6.0	MH	131	
UNLOAD CROSSING MATERIAL - PUBLIC - CAP	8.0	MH	174	
PAYROLL ASSOCIATED COSTS			1,918	
EQUIPMENT EXPENSES			1,613	
DA LABOR OVERHEADS			2,994	
INSURANCE EXPENSES			436	
TOTAL LABOR COST			9,751	9,751
********** MATERIAL **********				
BALLAST, MILL CREEK OK (SFW, KSE)	100.0	NT **	781	
TRACK PANEL, 136 LB 40 FT- 10 FT TIES-PANDROL	1.0	EA **	4,873	
RAIL, TRANSN,BE,40 FT,136 - 1/4 WORN 132	4.0	EA X	4,998	
WELDKIT, GENERIC FOR ALL RAIL WEIGHTS	6.0	KT	426	
CONC 136 08-SEC WITH FILLER FOR 10" WOOD TIES	16.0	FT	3,316	
CONCRETE XING RAMP AND PANEL RESTRAINT,	1.0	ST	257	
SIGNAL MATERIAL	0.7	DAY	123	
MATERIAL HANDLING			735	
ONLINE TRANSPORTATION			1,551	
USE TAX			926	
OFFLINE TRANSPORTATION			88	
TOTAL MATERIAL COST			18,074	18,074
********** OTHER **********				
LEASED EQUIPMENT WITH OPERATOR	0.7	DAY	1,050	
TRAFFIC CONTROL	1.0	LS	5,000	
TOTAL OTHER ITEMS COST			6,050	6,050
PROJECT SUBTOTAL				33,875
CONTINGENCIES				3,351
BILL PREPARATION FEE				373
GROSS PROJECT COST				37,599

LESS COST PAID BY BNSF	0
TOTAL BILLABLE COST	37,599

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: 47th Street South Improvement, between Meridian and Seneca (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The Capital Improvement Program (CIP) adopted by the City Council includes a project to improve 47th Street South, between Meridian and Seneca. On December 13, 2005, the City Council approved funding to design the project. The District IV Advisory Board held a neighborhood hearing on the proposed project on January 18, 2006. The Board voted 11-0 to recommend approval of the project. On December 9, 2008, the City Council approved funding to begin right-of-way acquisition. On July 13, 2010, the City Council approved the project design concept.

Analysis: The approved design concept is a combination of three, four, and five lane sections. 47th Street will be a five lance section from Meridian to a point 1/2 mile east of Meridian and a three lane roadway from that point to Seneca.. The five lane roadway section will extend to and from the entrance to the Southlakes Soccer Complex. The three lane roadway will consist of two through lanes and a center two-way left turn lane. There will be a four lane section that transitions between the three and five lane sections. Left turn lanes will be provided at the intersection of 47th and Meridian. Drainage improvements will be included and six foot wide sidewalk provided along both sides of 47th. The available right-of-way will be landscaped. A new waterline will be constructed in conjunction with the project. Construction is planned to begin February, 2011 and be completed in late 2011. Traffic will be carried one lane, one-way westbound during the first phase of construction. A large Westar transmission line in private easement on the south side of 47th will be relocated in advance of the project. An agreement with Westar for the relocation has been prepared.

Financial Consideration: Estimated construction cost is $6,230,000 with $3,730,000 paid by Federal grants administered by the Kansas Department of Transportation and $2,500,000 by City General Obligation bonds. The City Council previously approved $375,000 for design and right-of-way acquisition costs for a total budget of $6,605,000 with $3,730,000 paid by Federal grants and 2,875,000 by the City. Funding is included in the CIP. The estimated cost of the waterline project is $210,000 and is also included in the CIP, within the approved W-67 distribution mains-replacement budget.

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

Legal Considerations: The Law Department has approved the amending ordinance and Westar agreement as to legal form.

Recommendation/Action: It is recommended that the City Council approve the project, approve the Westar agreement, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, amending ordinance and Westar agreement.

132019

First Published in the Wichita Eagle on September 24, 2010

ORDINANCE NO. 48-827

AN ORDINANCE AMENDING ORDINANCE NO. **48-146** OF THE CITY OF WICHITA, KANSAS DECLARING **47TH STREET SOUTH, BETWEEN MERIDIAN AND SENECA (472-84296)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

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

SECTION 1. SECTION 1 of Ordinance No. **48-146** is hereby amended to read as follows:

"SECTION 1. SECTION 2 of Ordinance No. **46-840** is hereby amended to read as follows:

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **47th Street South, between Meridian and Seneca (472-84296)** as a main trafficway in the following particulars:

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

SECTION 2. SECTION 2. of Ordinance No. **48-146** is hereby amended to read as follows:

"SECTION 2. SECTION 3 of Ordinance No. **46-840** is hereby amended to read as follows:

SECTION 3. The cost of the construction of the above described improvement is estimated to be **Six Million Six Hundred Five Thousand Dollars ($6,605,000)** exclusive of the cost of interest on borrowed money. To the extent the cost of such improvement is not paid by Federal Grants administered by the Kansas Department of Transportation, the City of Wichita, Kansas is authorized to issue general obligation bonds to pay such costs under the authority of K.S.A. 12-689 up to a maximum amount of $6,605,000, exclusive of the cost of interest on borrowed money."

SECTION 3. The original SECTIONS 1 and 2 of Ordinance No. **48-146** are hereby repealed.

SECTION 4. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication

PASSED by the governing body of the City of Wichita, Kansas, this 21st day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

ELECTRIC LINE MODIFICATION/RELOCATION AGREEMENT

KANSAS GAS AND ELECTRIC COMPANY, a Kansas corporation ("WESTAR"), hereby agrees with The City of Wichita ("CUSTOMER") that WESTAR will provide the labor, equipment, materials and supplies to modify or relocate the electric power line on the property herein described, according to the terms and conditions set forth below.

1. The parties agree that the line modification/relocation is necessary to improve the following described real property, so that the property will be suitable for CUSTOMER'S intended use.

   Relocation of line #96.46, structure #57 through structure #67, allowing the widening of 47th street. A tract of land in the Northeast Quarter of the Northeast Quarter of Section 24, Township 28 South, Range I West and continuing along the proposed path and a tract of land in the Northeast corner of Section 19, Township 28 South, Range I East all in Sedgwick County, KS

2. CUSTOMER shall be liable for the final cost of the modification/relocation. The final cost shall be based on the actual labor, equipment, supplies, materials and property acquisitions (such as easement or rights of way), needed to modify or relocate the line in accordance with standard industry practice and in order for the line to comply with WESTAR standards and the National Electric Safety Code. WESTAR estimates at this time that the cost of the line modification/relocation will be $623,870.88. In the even the actual costs incurred for the work performed to relocate COMPANY'S electric power line exceeds the estimated amount as stated, Company will forward an itemized invoice to CUSTOMER reflecting the amount equal to 100% of the actual reasonable costs incurred above the estimated amount. CUSTOMER agrees to pay all actual costs other than those which may be arbitrary or capricious.

3. CUSTOMER shall make the payment for the final costs upon receipt of invoice after completion of the work.

4. Provided the foregoing conditions have been met, WESTAR shall begin work on the line on or before August 15, 2010 and shall have the modification or relocation completed on or before January 15, 2011. However, WESTAR may adjust or extend this work schedule as weather conditions require.

5. When the line modification or relocation is complete, WESTAR shall submit to CUSTOMER an invoice for the final modification/relocation costs, less any amount CUSTOMER has already paid. CUSTOMER shall than have 30 days from receipt of the invoice to pay WESTAR the amount due. If modification/relocation costs are less than amount already paid by CUSTOMER, WESTAR will refund the balance to the CUSTOMER within 90 days of the completion of the work.

6. The Kansas Overhead Power Line Accident Prevention Act, K.S.A. 66-1079 et seq., prohibits certain activity which is likely to place people, machinery or equipment within 10 feet of an overhead power line. Both prior to and after completion of the line modification/relocation, CUSTOMER shall be responsible for limiting or prohibiting any work or activity on the above-described property, which activity is likely to violate the Overhead Power Line Act or to otherwise risk bodily injury or damage. CUSTOMER agrees to indemnify, hold harmless and defend WESTAR for any claims arising from CUSTOMER'S duties described in this paragraph.

Executed this 3rd Day of August, 2010.

KANSAS GAS AND ELECTRIC COMPANY

By: _____

Print: _____

Title: _____

Attest: _____

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

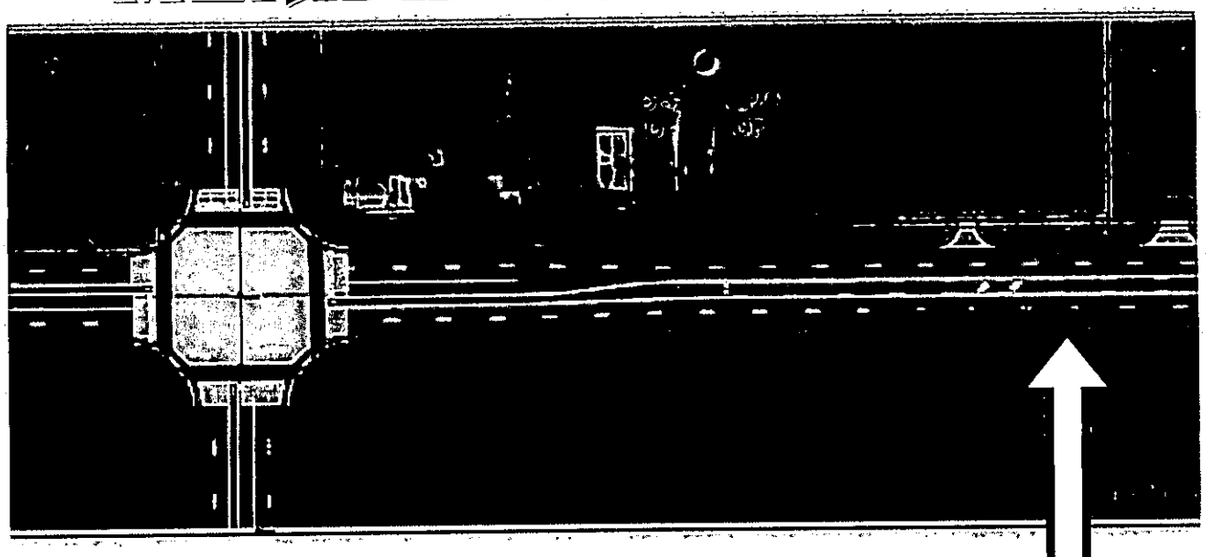
ATTEST:

_____
Karen Sublett, City Clerk

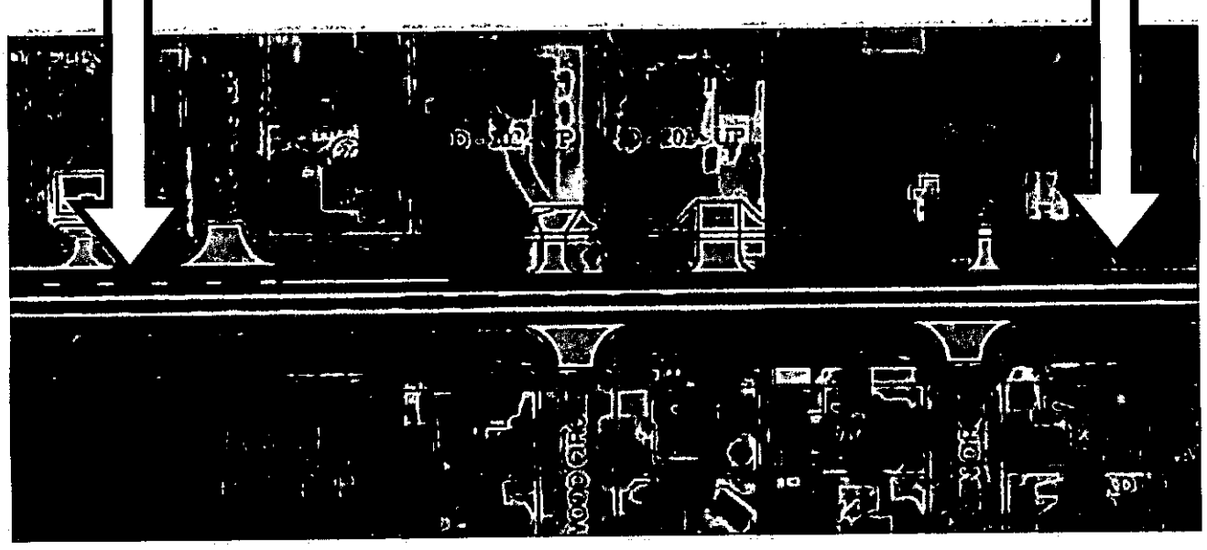
Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

47TH STREET SOUTH
MERIDIAN TO SENECA



WEST HALF OF PROJECT FIVE – LANE
EAST HALF OF PROJECT THREE – LANE
FOUR – LANE SECTION



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	8/23/2010	47th St South, Meridian - Seneca

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$2,875,000		$3,730,000	$6,605,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Freeway				
Totals	$2,875,000		$3,730,000	$6,605,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

$375,000 previously approved

for design & ROW Acq

472-84296

13. Recommendation: Approve the project and place the amending ordinance on 1st Reading

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

Agenda Item No. IV-1

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: CUP2010-00011 and ZON2010-00018 – Creation of DP-322 Pawnee and 127th Community Unit Plan and zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC"); generally located at the southwest corner of Pawnee Avenue and 127th Street East. (District II)

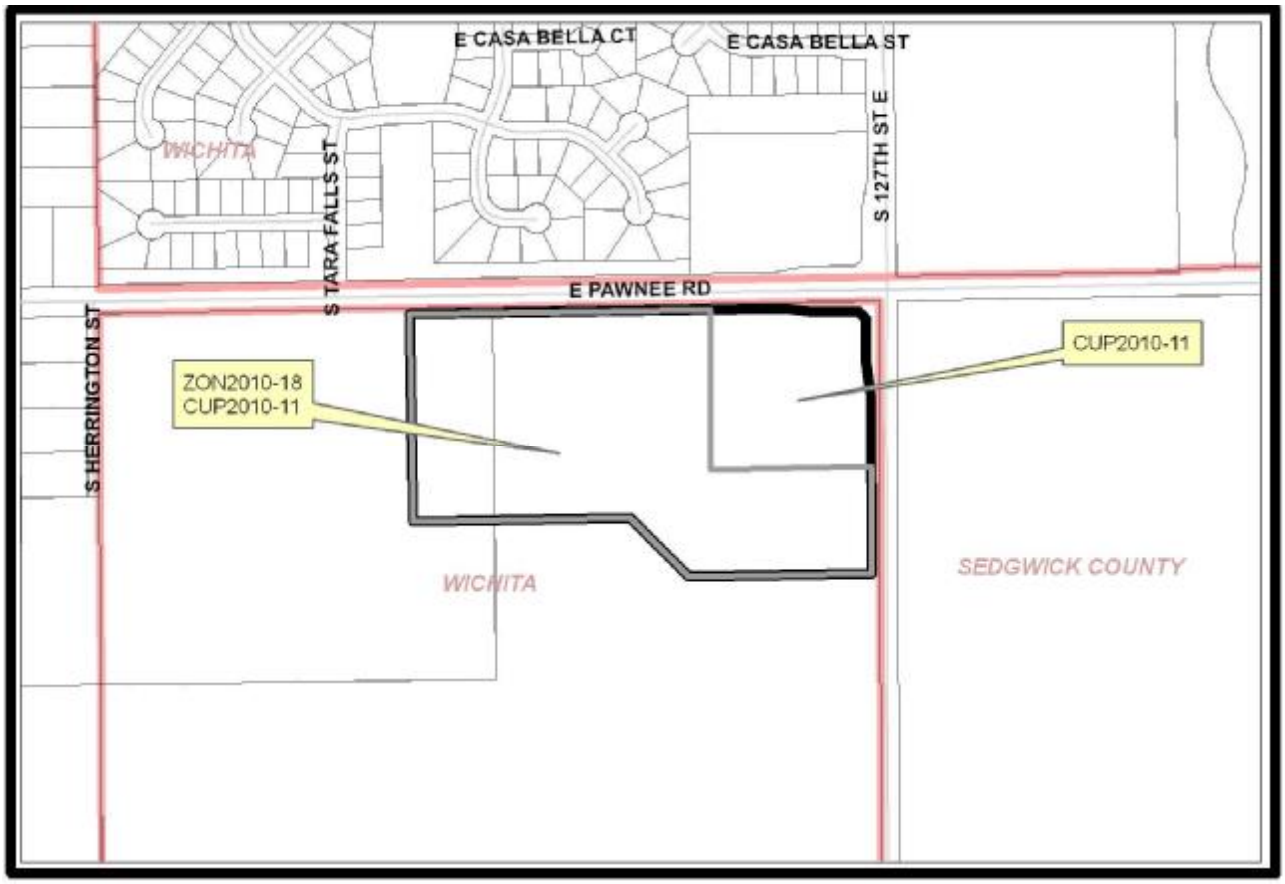
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to staff recommendations (vote 8-4).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB II Recommendations: Approve, subject to staff recommendations (vote 6-0).



BACKGROUND: The applicant proposes to create a Commercial Community Unit Plan ("CUP") containing approximately 27.95 acres consisting of 11 parcels. The property is currently zoned SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC"), and the proposal is to rezone the SF-5 area to LC. The property is located at the southwest corner of Pawnee Avenue and 127th Street East. Parcel 1 is 0.87 acre in size and is located in the northwest corner of the subject site. Parcels 2 through 8 are 0.95 acre in size and are located along Pawnee Road, along the north part of the proposed CUP. Parcel 9 is 1.65 acres in size and is located in the northeast corner of the subject site, at the intersection of Pawnee and 127th Street East. Parcel 10, the largest parcel, is 11.66 acres in size, and occupies the southeast portion of the subject site. Parcel 11 is 7.12 acres and is located in the southwest portion of the CUP.

The uses proposed to be permitted for all the parcels include: assisted living, church or place of worship, college or university, convalescent care limited and general, day care limited and general, government service, hospital, library, parks and recreation, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, car wash, construction sales and services, convenience store, funeral home, hotel and motel, indoor kennels and boarding for household pets, medical service, monument sales, nurseries and garden centers and associated outdoor storage, office general, parking area and/or accessory drive ancillary, parking area commercial, personal care service, personal improvement service, post office substation, printing and copying limited, recreation and entertainment indoor, restaurant, retail general, service station, vehicle repair limited, vocational school, warehouse self-service storage, storage outdoor and agriculture. Additional requirements recommended include restrictions to prevent headlights associated with queuing lanes from shining into residential zoning; overhead doors associated with vehicle repair are prohibited within 200 feet of residential uses and are not allowed to face residential zoning districts; and exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

CUP provisions also establish a maximum building coverage of 30 percent, a maximum floor area of 35 percent of lot area and a maximum height of 35 feet. The CUP also establishes building setbacks of 35 feet on arterial streets, along the north and east property lines. Interior side setbacks are established at 10 feet.

Buildings would have uniform architectural compatibility and a shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 30 feet in height, including the base and staff will request that the lighting elements be lowered to 15 feet within 100 feet of residential use. All parcels are to share similar or consistent parking lot lighting elements, and all exterior lighting is to be shielded to direct light disbursement in a downward direction.

The CUP proposes to omit the screening wall between the CUP and the residential zoning to the south and west. Instead, a non-opaque, ornamental wrought iron fence is to be installed at the time the adjoining parcels are developed. The screening for the southern and western lines of the CUP shall be accomplished with trees and shrubs within a 15 foot off-site landscape screening buffer. The trees shall be planted at a minimum rate of one tree per 40 feet of property line for all but the northwest 300 feet of the perimeter. The northwestern 300 feet shall contain grouped shrubbery, and the maintenance of the off-site landscaping screening buffer shall be by private covenant. The CUP states that trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened with materials matching or similar to the buildings' façade materials to reasonably hide them from ground view. The rear building facades of Parcels 10 and 11 shall be exempt from this provision, since screening measures for the adjoining south property owner have been made by way of a private agreement. Outdoor lawn and garden centers shall be exempt from screening requirements. Unless otherwise noted, screening and landscaping shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code and a financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted. Outdoor display and storage shall be subject to all conditions of Section III-B.14.e for all Parcels.

Unless otherwise noted, all parcels are subject to the requirements of the Sign Code for the City of Wichita for LC zone districts. All ground signs shall consist of monument style signs and share similar elements of design. The three signs permitted along Pawnee Road and the one sign along 127th Street East shall have a

maximum height of 25 feet, a maximum sign face area of 200 square feet and may be used for development identification as well as tenant signs for tenants within the CUP. Signs shall be spaced a minimum distance of 150 feet apart, provided however, that this spacing may be reduced to 100 feet between the development identification sign(s) and the adjacent monument sign. The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear footage. Building wall signs shall be prohibited on the south elevation of Parcels 10 and 11. Window signage shall be limited to 25% of window area. Marquee (variable or electronic message) signs are allowed on all parcels, but there shall not be more than five within the entire CUP. Illuminated signs are allowed and shall be shaded wherever necessary to avoid casting bright light upon property located in residential use areas. Illuminated signs located on a lot adjacent to or across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be brightly illuminated between the hours of eleven p.m. and seven a.m. No electronic message sign shall be erected or installed without dimming controls to ensure the sign is appropriately dimmed at night. Acceptable dimming controls include automated light sensing devices and/or programmable controls that are set by the user to automatically dim the sign at night. No strobe lights or flashing bulbs, moving and rotating signs, signs with moving lights, portable signs, off-site signs and billboards are allowed within the CUP.

The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland, and development to the north consists of vacant residential and commercial property. A new public high school is scheduled to be built on property located south and west of the application area. Agricultural farmland is located to the west on property zoned SF-5. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

Analysis: This case was heard at the District II Advisory Board meeting held on July 12, 2010. At that meeting, the DAB voted (6-0) to approve the request subject to staff conditions.

The case was originally heard at the July 8, 2010, MAPC meeting and was deferred until the next scheduled meeting. At the MAPC meeting held on July 22, 2010, the MAPC voted (8-4) to recommend approval of the CUP and zone change request subject to staff recommendations. There was discussion regarding updating the CUP drawing once the plat is recorded. One new condition was added that requires the applicant to gain approval from the Planning Director and Superintendent of Central Inspection before any signs(s) using back lit canopies or neon or fluorescent lighting are placed on any buildings within the proposed development. One citizen spoke requesting more information on the case and possible development on the site.

The action of the MAPC was to **APPROVE** the request, subject to platting within one year, and subject to the following conditions:

A. **APPROVE** the zone change (ZON2010-00018) to LC Limited Commercial subject to platting within one year; and

B. **APPROVE** the Community Unit Plan (DP-322), subject to the conditions of the CUP attached hereto and the following conditions:

1. No development shall occur until water and sewer services are available.
2. The height of the lighting shall be limited to 25 feet in height, including the base, and shall conform to the regulations of Section IV-B. 4 of the Wichita-Sedgwick County Unified Zoning Code ("UZC").
3. Revise General Provision10 (H) that currently states "across the street from a residential use area, which sign is visible and within two hundred feet of a residential use area, shall not be…" to state "across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be.."

4. Any proposed sign(s) using back lit canopies and neon or fluorescent tube lighting on buildings will need to be approved by the Planning Director and the Director of the Office of Central Inspection.
5. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-322) includes special conditions for development on this property.
9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Two protest petitions have been filed on this case; however, they are outside the protest distance and does not count towards the percentage triggering a super majority vote. Therefore, a simple majority vote will be needed to approve the request since the 20% threshold for a ¾ majority vote was not achieved.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the community unit plan and the zone change to LC Limited Commercial ("LC"); withhold the publication of the ordinance until the plat is recorded (simple majority vote required); or
2. Deny the application (two-thirds majority vote required); or
3. Return the application to the MAPC for reconsideration (simple majority vote required).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

OCA 150004

ORDINANCE NO. 48-828

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00018

Zone change request from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") on property described as:

A tract of land lying in the Northeast Quarter, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

COMMENCING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 100.84 feet; thence S89°43'17"W, 75.00 feet to the POINT OF BEGINNING, thence parallel with said east line, S00°16'43"E, 150.00 feet; thence S08°48'33"E, 101.12 feet to a point 60.00 feet east of said east line; thence S00°16'43"E, 609.89 feet; thence S89°05'03"W, 615.04 feet; thence N45°11'06"W, 279.30 feet; thence S89°05'03"W, 729.45 feet; thence N00°54'57"W, 700.00 feet to a point lying 60.00 feet south of the north line of said Quarter; thence parallel with and 60 feet south of said north line, N89°05'03"E, 1259.29 feet; thence S82°23'06"E, 101.12 feet; thence N89°05'03"E, 150.00 feet; thence S45°35'50"E, 35.16 feet to the POINT OF BEGINNING; generally located at the southwest corner of Pawnee Avenue and 127th Street East.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of September, 2010.

ATTEST:

_____ _____

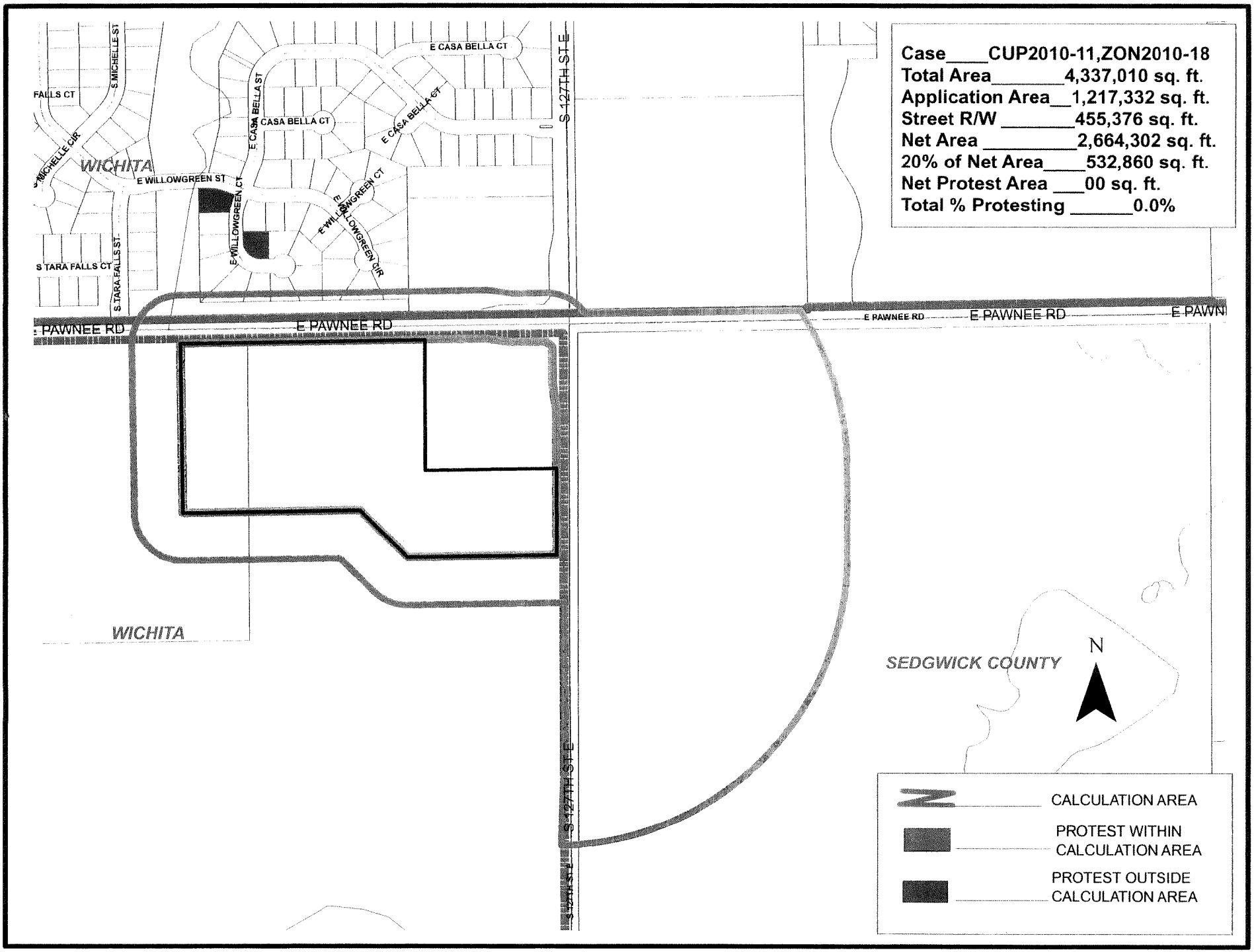
Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law


Case____CUP2010-11,ZON2010-18
Total Area_____4,337,010 sq. ft.
Application Area__1,217,332 sq. ft.
Street R/W _____455,376 sq. ft.
Net Area _____2,664,302 sq. ft.
20% of Net Area____532,860 sq. ft.
Net Protest Area ___00 sq. ft.
Total % Protesting _____0.0%
E CASA BELLA CT
S 127TH ST E
FALLS CT
S MICHELLE ST
E CASA BELLA ST
CASA BELLA CT
E CASA BELLA CT
MICHELLE CIR
WICHITA
E WILLOWGREEN ST
E WILLOWGREEN CT
E WILLOWGREEN CIR
S TARA FALLS CT
S TARA FALLS ST
E PAWNEE RD
E PAWNEE RD
E PAWNEE RD
E PAWNEE RD
E PAWN
WICHITA
SEDGWICK COUNTY
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

EXCERPT OF THE JULY 8, 2010 MAPC HEARING

Case No.: ZON2010-18 and CUP2010-11 - Paul Weninger (Owner) / 127 Paw, LLC, Attn: Gary Oborny (Applicant) / MKEC Engineering Consultants, Inc, Attn: Greg Allison (Agent) Request City zone change from SF-5 Single Family Residential to LC Limited Commercial and Creation of Commercial Community Unit Plan (Pawnee and 127th Commercial CUP) on property described as;

A tract of land lying in the Northeast Quarter, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:
COMMENCING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 100.84 feet; thence S89°43'17"W, 75.00 feet to the POINT OF BEGINNING, thence parallel with said east line, S00°16'43"E, 150.00 feet; thence S08°48'33"E, 101.12 feet to a point 60.00 feet east of said east line; thence S00°16'43"E, 609.89 feet; thence S89°05'03" W, 615.04 feet; thence N45°11'06" W, 279.30 feet; thence S89°05'03" W, 729.45 feet; thence N00°54'57" W, 700.00 feet to a point lying 60.00 feet south of the north line of said Quarter; thence parallel with and 60 feet south of said north line, N89°05'03"E, 1259.29 feet; thence S82°23'06"E, 101.12 feet; thence N89°05'03"E, 150.00 feet; thence S45°35'50"E, 35.16 feet to the POINT OF BEGINNING.

A tract of land lying in the Northeast Quarter, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:
COMMENCING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 600.70 feet; thence S89°43'17"W, 60.00 feet to the POINT OF BEGINNING, thence parallel with said east line S00°16'43"E, 360.02 feet; thence S89°05'03"W, 615.04 feet; thence N45°11'06"W, 279.30 feet; thence S89°05'03"W, 729.45 feet; thence N00°54'57"W, 700.00 feet to a point lying 60.00 feet south of the north line of said Quarter; thence parallel with and 60 feet south of said north line, N89°05'03"E, 1009.42 feet to a point 600.00 feet west of said east line; thence S00°16'43"E, 540.03 feet to a point lying 600.00 feet south of said north line; thence N89°05'03"E, 540.03 feet to the point of beginning, generally located at the southwest corner of 127th Street and Pawnee Avenue.

BACKGROUND: The applicant proposes to create a Commercial Community Unit Plan ("CUP") containing approximately 27.95 acres consisting of 11 parcels. The property is currently zoned SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") and the proposed zoning is for the whole area to be zoned LC. The property is located at the southwest corner of Pawnee Avenue and 127th Street East. Parcel 1 is 0.87-acre in size and is located in the northwest corner of the subject site. Parcels 2 through 8 are 0.95-acre in size, and are located along Pawnee Road, along the north part of the proposed CUP. Parcel 9 is 1.65 acres in size and is located in the northeast corner of the subject site, at the intersection of Pawnee and 127th Street. Parcel 10, the largest parcel, is 11.66 acres in size, and occupies the southeast portion of the subject site. Parcel 11 is 7.12 acres, and is located in the southwest portion of the CUP.

The uses proposed to be permitted for all the parcels include: assisted living, church or place of worship, college or university, convalescent care limited and general, day care limited and general, government service, hospital, library, parks and recreation, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, car wash, construction sales and

services, convenience store, funeral home, hotel and motel, indoor kennels and boarding for household pets, medical service, monument sales, nurseries and garden centers and associated outdoor storage, office general, parking area and/or accessory drive ancillary, parking area commercial, personal care service, personal improvement service, post office substation, printing and copying limited, recreation and entertainment indoor, restaurant, retail general, service station, vehicle repair limited, vocational school, warehouse self-service storage, storage outdoor, and agriculture. Additional requirements recommended would include restrictions to prevent headlights associated with queuing lanes from shining into residential zoning, overhead doors associated with vehicle repair would be prohibited within 200 feet of residential uses and not be allowed to face residential zoning districts and noise is restricted. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area, maximum height of 35 feet. Building setbacks are 35 feet on arterial streets and the north and east property lines and interior side setbacks are 10 feet.

Buildings would have uniform architectural compatibility and shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 30 feet in height, including the base, and staff will request that the lighting elements be lowered to 15 feet within 100 feet of residential use. All parcels shall share similar or consistent parking lot lighting elements and all exterior lighting shall be shielded to direct light disbursement in a downward direction, while the use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

The CUP would omit the screening wall between the CUP and the residential zoning to the south and west. Instead, a non-opaque, ornamental wrought iron fence will be installed at the time of Parcel development. The screening for the southern and western lines of the CUP shall be accomplished with trees and shrubs within a 15 foot off-site landscape screening buffer. The trees shall be planted at a minimum rate of one tree per 40 feet of property line for all but the northwest must 300 feet of the perimeter. The northwest most 300 feet shall contain grouped shrubbery, and the maintenance of the off-site landscaping screening buffer shall be by private covenant. The CUP states that trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened with materials matching or similar to the building(s) façade materials to reasonably hide them from ground view. The rear building facades of Parcels 10 and 11 shall be exempt from this provision, since screening measures for the adjoining south property owner have been made by way of an agreement. Outdoor lawn and garden center shall be exempt from screening measure. Unless otherwise noted, screening and landscaping shall be in accordance with the Wichita-Sedgwick County Unified Code and a financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted. Outdoor display and storage shall be subject to all conditions of Section III-B.14.e for all Parcels.

Unless otherwise noted, all Parcels are subject to the requirements of the Sign Code for the City of Wichita for LC zone districts. Ground signs shall all consist of monument style signs and share similar elements of design. Three signs along Pawnee Road and one sign along 127th Street shall have a maximum height of 25 feet and a maximum sign face area of 200 square feet to be used for development identification as well as tenant signs for tenants within the CUP. Signs shall be spaced a minimum distance of 150 feet apart, provided however, that this spacing may be reduced to 100 feet between the development identification sign(s) and the adjacent monument sign. The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear footage. Building wall signs shall be prohibited on the south elevation of Parcels 10 and 11. Window signage shall be limited to 25% of window area. Marque (variable or electronic message) signs are allowed on all Parcels, but there shall not be more than 5 within the entire CUP. Illuminated signs are allowed and shall be shaded wherever necessary to avoid casting bright light upon property located in residential use areas.

Illuminated signs located on a lot adjacent to or across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be brightly illuminated between the hours of eleven p.m. and seven a.m. No electronic message sign shall be erected or installed without dimming controls to ensure the sign is appropriately dimmed at night. Acceptable dimming controls include automated light sensing devices and/or programmable controls that are set by the user to automatically dim the sign at night. No strobe lights or flashing bulbs, moving and rotating signs, signs with moving lights, portable signs, off-site signs and billboards are allowed within the CUP.

The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland and north consists of vacant residential and commercial property. A new public high school is scheduled to be built on property located south and west of the application area. Agricultural farmland is located to the west on property zoned SF-5. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

CASE HISTORY: The property is unplatted. The property was annexed to the City of Wichita effective November 22, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC	Residences, Vacant Residential and Commercial Land
SOUTH:	SF-5	Farming/Ranching Operations
EAST:	SF-20	Farming/Ranching Operations
WEST:	SF-5	Farming/Ranching Operations

PUBLIC SERVICES: Access will be per the access management guidelines, with access locations to be determined by the plat for Pawnee Avenue and 127th Street. Pawnee Avenue is a paved minor arterial developed as a two-lane road. 127th Street East is a two-lane unpaved minor arterial. There are currently no traffic counts at this location. The site is not currently served by city water and sewer service; however, both services are located across Pawnee Road and will need to be extended for the future development.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. Also, the area nearest to the intersection of 127th and Pawnee is identified as appropriate for "local commercial" type uses. "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The proposed development is in conformance with this designation.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." No significant clusters of retail commercial activities are located at this intersection today, although the northeast, northwest and southeast corners also are

designated for local commercial use. Minimizing detrimental impacts to the residential neighborhood to the north has been improved with additional land use and site restrictions included within the CUP. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural, landscaping, parking lot elements and lighting and signage consistency and/or compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards, per the access management guidelines. **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; and **#4** recommends compact clusters versus extended strip development. **Commercial Locational Guideline #5** commercially-generated traffic should not feed directly onto local residential streets and **#6** commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year, and subject to the following conditions:

A. **APPROVE** the zone change (ZON2010-00018) to LC Limited Commercial subject to platting within one year.

B. **APPROVE** the Community Unit Plan (DP-322), subject to the conditions of the CUP attached hereto and the following conditions:

1. No development shall occur until water and sewer services are available.
2. The height of the lighting shall be limited to 25 feet in height, including the base, and shall conform to the regulations of Section IV-B. 4 of the Wichita-Sedgwick County Unified Zoning Code ("UZC").
3. Revise General Provision10 (H) that currently states "across the street from a residential use area, which sign is visible and within two hundred feet of a residential use area, shall not be…" to state "across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be.."
4. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with

the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

7. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-322) includes special conditions for development on this property.
8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland and north consists of vacant residential and commercial property. Agricultural farmland is located to the west on property zoned SF-5. A new public high school is scheduled to be developed on land located to the west and south. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

2. The suitability of the subject property for the uses to which it has been restricted: At the intersection a 600 x 600-foot square area is zoned LC while the remainder of the site is currently zoned SF-5. The site could be developed as currently zoned. However, the community's long established commercial development pattern has been the placement of commercial zoning and retail uses on property located at the intersections of section line roads. The LC zoned property has been in place since 1958. Six acres of LC zoning have rarely been large enough for contemporary retail development patterns so it has been typical to see a request for increased commercial zoning in locations similar to the application area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas will be decreased by use restrictions, additional site restrictions nearer residential development, consistency in design elements such as architectural elements, landscaping, lighting and signage.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. Also, the area nearest to the intersection of 127th and Pawnee is identified as appropriate for "local commercial" type uses. "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The proposed development is in conformance with this designation.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on Pawnee Avenue and 127th Street East when this development is fully built

out. Limits on the access, with conformance to the Access Management Policy and a possible left-turn center lane and decel lane improvements could help mitigate traffic issues in the future. Extension of other publicly supplied services, such as sewer and water, have been or will be guaranteed with platting.

GENE RATH, MKEC ENGINEERING, AGENT FOR THE APPLICANT said they would prefer to go ahead and have the zoning item heard today. He said they are okay with Staff comments, except for the paving issue.

HILLMAN asked if the applicant was the current owner.

RATH said no, they are the contract purchaser.

MITCHELL asked how the Commission can act on the zoning case when the issue of paving was unresolved. He said a number of the zoning conditions have to do with things that can be affected by the paving issue. He suggested deferring hearing the zoning case until after the Subdivision Committee has heard the plat for the commercial property.

MOTION: To defer hearing the item.

MITCHELL moved, **DOWNING** seconded the motion.

SLOCUM said he believed there were people in the audience who wished to speak on the item since he has gotten phone calls. He suggested that if the Commission voted to defer hearing the case people in the audience should be allowed to speak.

There was brief discussion concerning taking public testimony at today's meeting regarding the case because many times people are not able to come back for a second meeting.

MELISSA BROCKMAN, 12312 EAST CASA BELLA said she lives across the street from the proposed development. She said when she called she wasn't told much about the case. She said she wanted to know what LC Limited Commercial zoning means and what is allowed under that zoning because the neighbors understood that the whole area was platted for a school.

LANG mentioned that the pending motion to defer needed to be entered into the record.

MOTION: The motion to defer hearing the case passed (12-0).

LANG clarified that this was an opportunity for the public to give testimony only. He said if they have questions, they will need to visit with Staff out in the hall.

JOHNSON suggesting letting staff give a brief presentation and then let the public decide what they want to do.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

DOWNING said he felt some of the possible uses being suggested for the area are not appropriate with a wrought iron fence, especially with a school on the other side. He said he would like to bring that up for discussion when the case is heard by the Commission.

MELISSA BROCKMAN, 12312 EAST CASA BELLA said she was new to the area. She said she received a letter (Public Hearing Notice) telling her that she was able to go to the public hearing and voice her opinion on this issue but the letter didn't explain what a CUP Community Unit Plan and LC Limited Commercial zoning are. She said she would have liked to get the Staff Report in the mail prior to the meeting so that she had time to digest the information instead of having to drive here and hear the case. She asked if the entire red area was going to be LC. She said she is also concerned that this area is not going to be a night club or a bar. She said she has lived across the street from a school and she was sure the lights for the football field are going to be 25 feet or higher. She also mentioned her concern about traffic in the area and said the speed limit is currently 55 miles per hour (mph) along Pawnee. She suggested reducing the speed limit down to 45 mph to slow down traffic.

EXCERPT OF THE JULY 22, 2010 MAPC HEARING

Case No.: ZON2010-18 and CUP2010-11 - Paul Weninger (Owner) / 127 Paw, LLC, Attn: Gary Oborny (Applicant) / MKEC Engineering Consultants, Inc, Attn: Greg Allison (Agent) Request City zone change from SF-5 Single-Family Residential to LC Limited Commercial and Creation of Commercial Community Unit Plan (Pawnee and 127th Commercial CUP) on property described as;

A tract of land lying in the Northeast Quarter, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:
COMMENCING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 100.84 feet; thence S89°43'17"W, 75.00 feet to the POINT OF BEGINNING, thence parallel with said east line, S00°16'43"E, 150.00 feet; thence S08°48'33"E, 101.12 feet to a point 60.00 feet east of said east line; thence S00°16'43"E, 609.89 feet; thence S89°05'03" W, 615.04 feet; thence N45°11'06" W, 279.30 feet; thence S89°05'03" W, 729.45 feet; thence N00°54'57" W, 700.00 feet to a point lying 60.00 feet south of the north line of said Quarter; thence parallel with and 60 feet south of said north line, N89°05'03"E, 1259.29 feet; thence S82°23'06"E, 101.12 feet; thence N89°05'03"E, 150.00 feet; thence S45°35'50"E, 35.16 feet to the POINT OF BEGINNING.

A tract of land lying in the Northeast Quarter, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:
COMMENCING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 600.70 feet; thence S89°43'17"W, 60.00 feet to the POINT OF BEGINNING, thence parallel with said east line S00°16'43"E, 360.02 feet; thence S89°05'03"W, 615.04 feet; thence N45°11'06"W, 279.30 feet; thence S89°05'03"W, 729.45 feet; thence N00°54'57"W, 700.00 feet to a point lying 60.00 feet south of the north line of said Quarter; thence parallel with and 60 feet south of said north line, N89°05'03"E, 1009.42 feet to a point 600.00 feet west of said east line; thence S00°16'43"E, 540.03 feet to a point lying 600.00 feet south of said north line; thence N89°05'03"E, 540.03 feet to the POINT OF BEGINNING. Generally located at the southwest corner of 127th Street and Pawnee Avenue.

BACKGROUND: The applicant proposes to create a Commercial Community Unit Plan ("CUP") containing approximately 27.95 acres consisting of 11 parcels. The property is currently zoned SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") and the proposed zoning is for the whole area to be zoned LC. The property is located at the southwest corner of Pawnee Avenue and 127th Street East. Parcel 1 is 0.87-acre in size and is located in the northwest corner of the subject site. Parcels 2 through 8 are 0.95-acre in size, and are located along Pawnee Road, along the north part of the proposed CUP. Parcel 9 is 1.65 acres in size and is located in the northeast corner of the subject site, at the intersection of Pawnee and 127th Street. Parcel 10, the largest parcel, is 11.66 acres in size, and occupies the southeast portion of the subject site. Parcel 11 is 7.12 acres, and is located in the southwest portion of the CUP.

The uses proposed to be permitted for all the parcels include: assisted living, church or place of worship, college or university, convalescent care limited and general, day care limited and general, government service, hospital, library, parks and recreation, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, car wash, construction sales and

services, convenience store, funeral home, hotel and motel, indoor kennels and boarding for household pets, medical service, monument sales, nurseries and garden centers and associated outdoor storage, office general, parking area and/or accessory drive ancillary, parking area commercial, personal care service, personal improvement service, post office substation, printing and copying limited, recreation and entertainment indoor, restaurant, retail general, service station, vehicle repair limited, vocational school, warehouse self-service storage, storage outdoor, and agriculture. Additional requirements recommended would include restrictions to prevent headlights associated with queuing lanes from shining into residential zoning, overhead doors associated with vehicle repair would be prohibited within 200 feet of residential uses and not be allowed to face residential zoning districts and noise is restricted. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area, maximum height of 35 feet. Building setbacks are 35 feet on arterial streets and the north and east property lines and interior side setbacks are 10 feet.

Buildings would have uniform architectural compatibility and shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 30 feet in height, including the base, and staff will request that the lighting elements be lowered to 15 feet within 100 feet of residential use. All parcels shall share similar or consistent parking lot lighting elements and all exterior lighting shall be shielded to direct light disbursement in a downward direction.

The CUP would omit the screening wall between the CUP and the residential zoning to the south and west. Instead, a non-opaque, ornamental wrought iron fence will be installed at the time of Parcel development. The screening for the southern and western lines of the CUP shall be accomplished with trees and shrubs within a 15 foot off-site landscape screening buffer. The trees shall be planted at a minimum rate of one tree per 30 feet of property line for all but the northwest most 300 feet of the perimeter. The northwest most 300 feet shall contain grouped shrubbery, and the maintenance of the off-site landscaping screening buffer shall be by private covenant. The CUP states that trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened with materials matching or similar to the building(s) façade materials to reasonably hide them from ground view. The rear building facades of Parcels 10 and 11 shall be exempt from this provision, since screening measures for the adjoining south property owner have been made by way of an agreement. Outdoor lawn and garden center shall be exempt from screening measure. Unless otherwise noted, screening and landscaping shall be in accordance with the Wichita-Sedgwick County Unified Code and a financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted. Outdoor display and storage shall be subject to all conditions of Section III-B.14.e for all Parcels.

Unless otherwise noted, all Parcels are subject to the requirements of the Sign Code for the City of Wichita for LC zone districts. Ground signs shall all consist of monument style signs and share similar elements of design. Three signs along Pawnee Road and one sign along 127th Street shall have a maximum height of 25 feet and a maximum sign face area of 200 square feet to be used for development identification as well as tenant signs for tenants within the CUP. Signs shall be spaced a minimum distance of 150 feet apart, provided however, that this spacing may be reduced to 100 feet between the development identification sign(s) and the adjacent monument sign. The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear footage. Building wall signs shall be prohibited on the south elevation of Parcels 10 and 11. Window signage shall be limited to 25% of window area. Marque (variable or electronic message) signs are allowed on all Parcels, but there shall not be more than 5 within the entire CUP. Illuminated signs are allowed and shall be shaded wherever necessary to avoid casting bright light upon property located in residential use areas. Illuminated signs located on a lot adjacent to or across the street from a residential use area, in which

signs are visible and within two hundred feet of a residential use area, shall not be brightly illuminated between the hours of eleven p.m. and seven a.m. No electronic message sign shall be erected or installed without dimming controls to ensure the sign is appropriately dimmed at night. Acceptable dimming controls include automated light sensing devices and/or programmable controls that are set by the user to automatically dim the sign at night. No strobe lights or flashing bulbs, moving and rotating signs, signs with moving lights, portable signs, off-site signs and billboards are allowed within the CUP.

The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland and north consists of vacant residential and commercial property. A new public high school is scheduled to be built on property located south and west of the application area. Agricultural farmland is located to the west on property zoned SF-5. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

CASE HISTORY: The property is unplatted. The property was annexed to the City of Wichita effective November 22, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC	Residences, Vacant Residential and Commercial Land
SOUTH:	SF-5	Farming/Ranching Operations
EAST:	SF-20	Farming/Ranching Operations
WEST:	SF-5	Farming/Ranching Operations

PUBLIC SERVICES: Access will be per the access management guidelines, with access locations to be determined by the plat for Pawnee Avenue and 127th Street. Pawnee Avenue is a paved minor arterial developed as a two-lane road. 127th Street East is a two-lane unpaved minor arterial. There are currently no traffic counts at this location. The site is not currently served by city water and sewer service; however, both services are located across Pawnee Road and will need to be extended for the future development.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. Also, the area nearest to the intersection of 127th and Pawnee is identified as appropriate for "local commercial" type uses. "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The proposed development is in conformance with this designation.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." No significant clusters of retail commercial activities are located at this intersection today, although the northeast, northwest and southeast corners also are designated for local commercial use. Minimizing detrimental impacts to the residential neighborhood to

the north has been improved with additional land use and site restrictions included within the CUP. **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural, landscaping, parking lot elements and lighting and signage consistency and/or compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards, per the access management guidelines. **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; and **#4** recommends compact clusters versus extended strip development. **Commercial Locational Guideline #5** commercially-generated traffic should not feed directly onto local residential streets and **#6** commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year, and subject to the following conditions:

A. **APPROVE** the zone change (ZON2010-00018) to LC Limited Commercial subject to platting within one year.

B. **APPROVE** the Community Unit Plan (DP-322), subject to the conditions of the CUP attached hereto and the following conditions:

1. No development shall occur until water and sewer services are available.
2. The height of the lighting shall be limited to 25 feet in height, including the base, and shall conform to the regulations of Section IV-B. 4 of the Wichita-Sedgwick County Unified Zoning Code ("UZC").
3. Revise General Provision10 (H) that currently states "across the street from a residential use area, which sign is visible and within two hundred feet of a residential use area, shall not be…" to state "across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be.."
4. Any proposed sign(s) using back lit canopies and neon or fluorescent tube lighting on buildings will need to be approved by the Planning Director and the Director of the Office of Central Inspection.
5. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
8. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-322) includes special conditions for development on this property.
9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland and north consists of vacant residential and commercial property. Agricultural farmland is located to the west on property zoned SF-5. A new public high school is scheduled to be developed on land located to the west and south. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

2. The suitability of the subject property for the uses to which it has been restricted: At the intersection a 600 x 600-foot square area is zoned LC while the remainder of the site is currently zoned SF-5. The site could be developed as currently zoned. However, the community's long established commercial development pattern has been the placement of commercial zoning and retail uses on property located at the intersections of section line roads. The LC zoned property has been in place since 1958. Six acres of LC zoning have rarely been large enough for contemporary retail development patterns so it has been typical to see a request for increased commercial zoning in locations similar to the application area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas will be decreased by use restrictions, additional site restrictions nearer residential development, consistency in design elements such as architectural elements, landscaping, lighting and signage.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. Also, the area nearest to the intersection of 127th and Pawnee is identified as appropriate for "local commercial" type uses. "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The proposed development is in conformance with this designation.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on Pawnee Avenue and 127th Street East when this development is fully built out. Limits on the access, with conformance to the Access Management Policy and a possible left-turn center lane and decel lane improvements could help mitigate traffic issues in the future. Extension of other publicly supplied services, such as sewer and water, have been or will be guaranteed with platting.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

FOSTER noted a correction on the bottom two lines on page two of the Staff Report regarding a provision of the Landscape Ordinance that if solid screening was not provided then a tree was required every 30 feet (not 40 feet).

SLOCUM commented that the proposed screening was ornamental wrought iron fencing, which Mr. Downing expressed some concern about at the last Planning Commission meeting due to the proximity of the site to the proposed school.

MCKAY asked about the attached site map, and if the drawing would be changed to comply with requirements.

DENNIS asked if the drawing was correct.

MILLER said the attached proposed site plan was drawn as what the applicant was anticipating. He said the entire roadway is in the right-of-way because the area is not platted.

SLOCUM commented that both the zoning and Community Unit Plan (CUP) approval were contingent upon platting.

MOTION: To defer the application for 90 days.

MILLER STEVENS moved, **HILLMAN** seconded the motion.

GENE RATH, MKEC ENGINEERING AGENT FOR THE APPLCIANT asked that the Commission not defer the item. He said they are in agreement with all staff comments except the backlit canopies and neon and fluorescent lighting, which was discussed at the DAB meeting. He asked that they be allowed to use those items subject to the approval of the Planning Director and Superintendent of the Office of Central Inspection on an administrative basis. He said that was what was suggested at the DAB and he understood that Planning Staff was comfortable with that language. He requested that the Commission approve the item.

DENNIS asked if the applicant was satisfied with the current wording of item 4.

RATH commented that they are fine with that.

MCKAY commented that the CUP drawing doesn't show any access to the property off of 127th Street. He asked if that was correct.

RATH said access will be per the City's access management guidelines, which he believes requires a major entrance every 400 feet. He said he was not suggesting that there will not be access points along 127th Street because it was their intention that there will be.

SUBSTITUTE MOTION: To approve subject to staff recommendation.

HENTZEN moved, **DENNIS** seconded the motion.

MCKAY mentioned a point of order that the motion was made before the applicant was heard.

SHERMAN asked if the new wording on the lighting should be included in the motion.

MILLER stated that the correct language was in the Staff report.

MILLER STEVENS asked if there was a difference if the case was approved on a city or county basis.

MILLER commented that there are no discrepancies in policies between the City and the County with regard to CUP requirements.

MARNELL said by adopting this, he assumes the site plan is a part of that.

MILLER said if the site plan needs to be changed, the applicant or agent will need to come back to Planning Staff with an adjustment or amendment. He added that the final site plan will be cleaned up.

SUBSTITUTE MOTION: carried (8-4).

MARNELL, MCKAY, MILLER STEVENS and **VAN FLEET** – No.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Antione Sherfield, Neighborhood Assistant, District II

SUBJECT: **CUP2010-00011 and ZON2010-00018 DP-322 Pawnee & 127th Community Unit Plan**

DATE: July 12, 2010

On Monday, July 12, 2010 the District II Advisory Board considered a request to create DP–322 Pawnee and 127th Community Unity Plan; zone change to LC Limited Commercial ("LC").

The applicant proposes to create a Commercial Community Unit Plan ("CUP") containing approximately 27.95 acres consisting of 11 parcels. The property is currently zoned SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") and the proposed zoning is for the whole area to be zoned LC. The property is located at the southwest corner of Pawnee Avenue and 127th Street East. Parcel 1 is 0.87-acre in size and is located in the northwest corner of the subject site. Parcels 2 through 8 are 0.95-acre in size, and are located along Pawnee Road, along the north part of the proposed CUP. Parcel 9 is 1.65 acres in size and is located in the northeast corner of the subject site, at the intersection of Pawnee and 127th Street. Parcel 10, the largest parcel, is 11.66 acres in size, and occupies the southeast portion of the subject site. Parcel 11 is 7.12 acres, and is located in the southwest portion of the CUP.

The uses proposed to be permitted for all the parcels include: assisted living, church or place of worship, college or university, convalescent care limited and general, day care limited and general, government service, hospital, library, parks and recreation, animal care limited, automated teller machine, bank or financial institution, bed and breakfast inn, broadcast/recording studio, car wash, construction sales and services, convenience store, funeral home, hotel and motel, indoor kennels and boarding for household pets, medical service, monument sales, nurseries and garden centers and associated outdoor storage, office general, parking area and/or accessory drive ancillary, parking area commercial, personal care service, personal improvement service, post office substation, printing and copying limited, recreation and entertainment indoor, restaurant, retail general, service station, vehicle repair limited, vocational school, warehouse self-service storage, storage outdoor, and agriculture. Additional requirements recommended would include restrictions to prevent headlights associated with queuing lanes from shining into residential zoning, overhead doors associated with vehicle repair would be prohibited within 200 feet of residential uses and not be allowed to face residential zoning districts and noise is restricted. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

CUP provisions include maximum building coverage of 30 percent, maximum floor area of 35 percent of lot area, maximum height of 35 feet. Building setbacks are 35 feet on arterial streets and the north and east property lines and interior side setbacks are 10 feet.

Buildings would have uniform architectural compatibility and shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 30 feet in height, including the base, and staff will request that the lighting elements be lowered to 15 feet within 100 feet of residential use. All parcels shall share similar or consistent parking lot lighting elements and all exterior lighting shall be shielded to direct light disbursement in a

downward direction, while the use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

The CUP would omit the screening wall between the CUP and the residential zoning to the south and west. Instead, a non-opaque, ornamental wrought iron fence will be installed at the time of Parcel development. The screening for the southern and western lines of the CUP shall be accomplished with trees and shrubs within a 15 foot off-site landscape screening buffer. The trees shall be planted at a minimum rate of one tree per 40 feet of property line for all but the northwest must 300 feet of the perimeter. The northwest most 300 feet shall contain grouped shrubbery, and the maintenance of the off-site landscaping screening buffer shall be by private covenant. The CUP states that trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened with materials matching or similar to the building(s) façade materials to reasonably hide them from ground view. The rear building facades of Parcels 10 and 11 shall be exempt from this provision, since screening measures for the adjoining south property owner have been made by way of an agreement. Outdoor lawn and garden center shall be exempt from screening measure. Unless otherwise noted, screening and landscaping shall be in accordance with the Wichita-Sedgwick County Unified Code and a financial guarantee for the plant material approved on the landscape plan for that portion of the CUP being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted. Outdoor display and storage shall be subject to all conditions of Section III-B.14.e for all Parcels.

Unless otherwise noted, all Parcels are subject to the requirements of the Sign Code for the City of Wichita for LC zone districts. Ground signs shall all consist of monument style signs and share similar elements of design. Three signs along Pawnee Road and one sign along 127th Street shall have a maximum height of 25 feet and a maximum sign face area of 200 square feet to be used for development identification as well as tenant signs for tenants within the CUP. Signs shall be spaced a minimum distance of 150 feet apart, provided however, that this spacing may be reduced to 100 feet between the development identification sign(s) and the adjacent monument sign. The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear footage. Building wall signs shall be prohibited on the south elevation of Parcels 10 and 11. Window signage shall be limited to 25% of window area. Marque (variable or electronic message) signs are allowed on all Parcels, but there shall not be more than 5 within the entire CUP. Illuminated signs are allowed and shall be shaded wherever necessary to avoid casting bright light upon property located in residential use areas. Illuminated signs located on a lot adjacent to or across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be brightly illuminated between the hours of eleven p.m. and seven a.m. No electronic message sign shall be erected or installed without dimming controls to ensure the sign is appropriately dimmed at night. Acceptable dimming controls include automated light sensing devices and/or programmable controls that are set by the user to automatically dim the sign at night. No strobe lights or flashing bulbs, moving and rotating signs, signs with moving lights, portable signs, off-site signs and billboards are allowed within the CUP.

The site is currently unplatted and contains a dilapidated farm house and agricultural land. The property to the south is zoned SF-5 and to the north is zoned LC and SF-5; current development to the south consists of farmland and north consists of vacant residential and commercial property. A new public high school is scheduled to be built on property located south and west of the application area. Agricultural farmland is located to the west on property zoned SF-5. Property to the east is zoned SF-20 Single-family Residential ("SF-20") and LC and is currently undeveloped.

CASE HISTORY: The property is unplatted. The property was annexed to the City of Wichita effective November 22, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC	Residences, Vacant Residential and Commercial Land
SOUTH:	SF-5	Farming/Ranching Operations
EAST:	SF-20	Farming/Ranching Operations
WEST:	SF-5	Farming/Ranching Operations

Recommended Action: The **DAB** voted **(6-0)** to accept the Planning Staff's Recommendation to **approve the request subject to platting within one year, and subject to the following conditions:**

A. **APPROVE** the zone change (ZON2010-00018) to LC Limited Commercial subject to platting within one year.

B. **APPROVE** the Community Unit Plan (DP-322), subject to the conditions of the CUP attached hereto and the following conditions:

1. No development shall occur until water and sewer services are available.
2. The height of the lighting shall be limited to 25 feet in height, including the base, and shall conform to the regulations of Section IV-B. 4 of the Wichita-Sedgwick County Unified Zoning Code ("UZC").
3. Revise General Provision10 (H) that currently states "across the street from a residential use area, which sign is visible and within two hundred feet of a residential use area, shall not be…" to state "across the street from a residential use area, in which signs are visible and within two hundred feet of a residential use area, shall not be.."
4. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-322) includes special conditions for development on this property.
8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Antione Sherfield
Neighborhood Assistant – District II

Agenda Item No. IV-2

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00022 – City zone change from TF-3 Two-family Residential ("TF-3") to Limited Commercial ("LC") subject to Protective Overlay #244; generally located southwest of the intersection of Orme and Hillside. (District I)

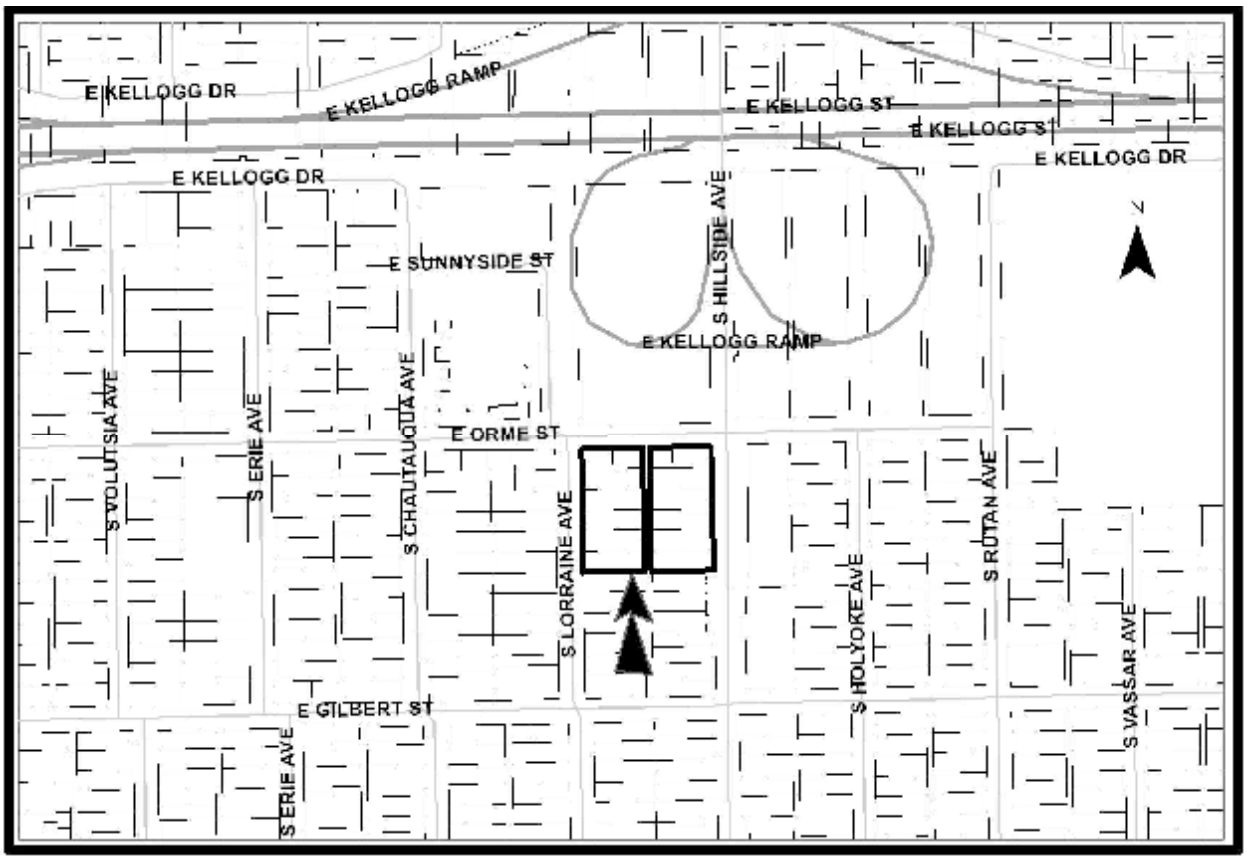
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

DAB Recommendation: Deny (vote unanimous).

MAPC Recommendation: Approve (vote 7-5).

MAPD Staff Recommendation: Deny.



Background: The applicants are requesting LC Limited Commercial ("LC") zoning subject to a Protective Overlay ("PO") on approximately 2.09 acres located at the southwest corner of Orme Street and Hillside Avenue. The site is currently zoned TF-3 Two-family Residential ("TF-3"), is platted into 26 lots, Lots 49-72, Block 8, Sunny-Side Addition, that are owned by 11 different owners. The lots are developed with single-family residences built between 1920 and 1940. The subject property has 300 feet of frontage on Hillside Avenue and on Lorraine Avenue and approximately 324 feet (including the 20-foot alley) of frontage on Orme. A 16-foot wide alley runs south from Orme through the center of the application area and beyond to Gilbert Street, located one block south of Orme. (To incorporate the alley into the project, either a replat or a vacation is required. An appropriate terminus to the alley would be decided as part of either of those two actions.)

The applicants' proposed PO was subsequently modified by the Metropolitan Area Planning Commission ("MAPC"), and the applicant has agreed to the modifications. The modified PO is detailed in the "analysis" section below.

Due to the length of the site's frontage, zoning code compatibility standards trigger a 25-foot setback along the rear- and side yard where zoning more intense than TF-3 is located contiguous to, or across the street from, TF-3 or SF-5, Single-family Residential ("SF-5") zoning, unless separated by a freeway or expressway.

Nearby properties are zoned General Office ("GO"), TF-3 and un-zoned right-of-way. The properties located to the west, across Lorraine, and the contiguous western half-block located to the south are zoned TF-3 and are developed with single-family residences. Land contiguous to the eastern half-block located south of the subject site is zoned GO and is developed with office uses, as is the property located east across Hillside. Land to the north of Orme is un-zoned right-of-way and is part of the Hillside-U.S. 400 interchange. There is also a church located southwest of the site, across Lorraine.

In general, homes in the application area are older, but well maintained residences. The two blocks facing Lorraine, south of Orme, are tree lined and have the quintessential feel of a typical neighborhood of the 1920s, 1930s and 1940s. The Hillside portion of the application area has less of a neighborhood feel than the Lorraine side.

Prior to 1992, the land use policy for this segment of Hillside was to look favorably on office zoning for the lots that have frontage on Hillside. In looking at the development that has occurred between the three lots located immediately south of the application area north to Central, there are a significant number of lots that front Hillside that have been rezoned to GO and developed with medical related uses, creating a significant medical corridor anchored on the north by Wesley (northeast corner of Central and Hillside) and on the south by Via Christi-St. Joseph (east of Hillside, north of Harry) medical centers.

Analysis: At the District Advisory Board ("DAB") I meeting held on August 2, 2010, the DAB voted unanimously to recommend denial of the request for LC zoning with the recommended Protective Overlay ("PO"). Among the concerns expressed were: increased traffic volumes generated by a commercial use and the potential for additional accidents; traffic cutting through private parking lots due to the median in Hillside; potential loss of value to remaining homes and the potential for increased crime that can be associated with 24-hour/seven-day-a-week operations.

At the Metropolitan Area Planning Commission ("MAPC") meeting held August 5, 2010, speakers made comments similar to those made at the DAB meeting. The MAPC voted to recommend approval (7-5) of the request for LC zoning subject to the following modified Protective Overlay ("PO") #244 (see 2.E, 2.F, 4.C, 5.B, 10 and 11):

1. Architectural Controls:

A. All buildings within the subject property shall share a uniform architectural character, color and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominate exterior façade material.

2. Landscaping:

A. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.

B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating type, location and specifications for all plant materials.

C. Existing street trees along Lorraine Avenue are to be preserved, supplemented with evergreen screening east of the existing street trees. Evergreens shall be spaced at a rate of one evergreen per 20 feet.

D. If existing trees are not preserved, evergreen screening shall apply to adjoining residential use properties along the west line and the west most 151 feet of the south line at a rate of one evergreen per six feet. When planted, evergreens shall be not less than six feet tall and shall be maintained to provide an opaque living wall.

E. Berms may be utilized to gain additional elevation for the evergreen screening. See 4.C below for berm requirements.

F. A landscape buffer of a minimum of 40 feet shall be maintained between Lorraine Street and any parking or traffic circulation areas.

3. Lighting:

A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, lamps, etc.).

B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.

C. Light poles including the above ground base shall be limited to a maximum height of 22 feet tall and 15 feet tall when located within 200 feet of residential use property.

4. Screening:

A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials.

B. Trash receptacles, loading docks and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) façade hiding them from ground view.

C. Berms that are a minimum of three feet higher than the elevation of the top of the Lorraine Street curb topped by a six-foot tall opaque screening fencing shall be utilized along or near the west property line and the west most 151 feet of the south line of the subject property. Opaque fencing may be constructed of or a combination of the following materials: masonry, cast or poured concrete, wood, white or natural color PVC vinyl, or similar screening with approval of the Director of Planning.

D. Unless otherwise noted, screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.

5. Setbacks shall be as follows:

A. Minimum Front (Hillside) Setback: 20 feet (east property line), provided that the minimum required front setback may be reduced pursuant to Sec. III-E.2.e(5) of the Wichita-Sedgwick County Unified Zoning Code.

B. Minimum Rear (Lorraine) Setback: 23 feet (west property line) from Lorraine to parking or traffic circulations and 73 feet to the building.

C. Minimum Interior Side Setback: Zero feet, but if an interior side setback is provided it shall be at least five feet in width. The west most 151 feet of the south property line shall be 25 feet.

D. Minimum Street Side (Orme) Setback: 10 feet (north property line).

6. Building Height: Up to 35 feet.

7. Building size shall be limited to that of the Neighborhood Retail zoning district: no individual use may exceed 8,000 square feet of floor area.

8. Uses shall be limited to the following LC Limited Commercial ("LC") zoning district uses:

A. Single-family, Duplex, Multi-family, Assisted Living, Day Care Limited, Day Care General, Government Service, Safety Service, Animal Care Limited, Automated Teller Machine, Bank or Financial Institution, Convenience Store, Funeral Home, Medical Services, Monument Sales, Nurseries and Garden Centers, Office General, Personal Care Service, Personal Improvement Service, Post Office Substation, Printing and Copying Limited, Restaurant, Retail General (the following retail general uses are prohibited: liquor store, entertainment establishment, pawnshop, businesses that accept vehicle titles or other property as security for loans and drive through service), Service Station and Vehicle Repair Limited.

B. No drive though lanes are allowed.

9. Complete access control is granted along Lorraine Avenue.

10. Signage shall be per the sign code except: there shall not be any ground or pole signage on the Lorraine or Orme frontages; there shall not be any building signage facing west; and only one monument sign is permitted on Hillside.

11. Trash pickup is permitted only between the hours of 7:00 a.m. and 9:00 p.m.

(In item number eight, some of the applicant's prohibited uses would have been allowed by-right as part of the "retail, general" category, so the prohibited uses have been listed individually to clarify that they are specifically prohibited. The applicant's other prohibited uses that have not been individually listed, such as bars, taverns, drinking establishments, nightclubs, etc., either are distinct uses listed separately from the "retail, general" category by the Unified Zoning Code or they require additional action such as conditional use approval; therefore they would not be allowed since they are not included in the list of permitted uses.)

At the end of the two-week protest period, 49.69 percent of the total land area within the protest area submitted valid protests against the requested zoning. Since the total land area protesting the case equals 20% or more, then it takes a 3/4 majority vote (six out of seven) of the Council to overturn the protest, and a 2/3 majority vote (five out of six) is required to overturn or modify the MAPC's recommended action.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to Protective Overlay #244 and place the ordinance on first reading (requires a three-fourths majority vote); or
2. Deny the request (requires a two-thirds vote) or
3. Return the request to the MAPC for further consideration (requires a simple majority vote).

OCA 150004

ORDINANCE NO. 48-829

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00022

Zone change request from TF-3 Two-family Residential ("TF-3") to LC Limited Commercial ("LC") subject to Protective Overlay #244 on properties described as:

All of Lots 49 thru 72 inclusive, Block 8, Sunny-Side Addition to Wichita, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #244:

1. Architectural Controls:

A. All buildings within the subject property shall share a uniform architectural character, color and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominate exterior façade material.

2. Landscaping:

A. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.

B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating type, location and specifications for all plant materials.

C. Existing street trees along Lorraine Avenue are to be preserved, supplemented with evergreen screening east of the existing street trees. Evergreens shall be spaced at a rate of one evergreen per 20 feet.

D. If existing trees are not preserved, evergreen screening shall apply to adjoining residential use properties along the west line and the west most 151 feet of the south line at a rate of one evergreen per six feet. When planted, evergreens shall be not less than six feet tall and shall be maintained to provide an opaque living wall.

E. Berms may be utilized to gain additional elevation for the evergreen screening.

F. A landscape buffer of a minimum of 40 feet shall be maintained between Lorraine Street and any parking or traffic circulation areas.

3. Lighting:

A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, lamps, etc.).

B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.

C. Light poles including the above ground base shall be limited to a maximum height of 22 feet tall and 15 feet tall when located within 200 feet of residential use property.

4. Screening:

A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials.

B. Trash receptacles, loading docks and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) façade hiding them from ground view.

C. Berms that are a minimum of three feet higher than the elevation of the top of the Lorraine Street curb topped by a six-foot tall opaque screening fencing shall be utilized along or near the west property line and the west most 151 feet of the south line of the subject property. Opaque fencing may be constructed of or a combination of the following materials: masonry, cast or poured concrete, wood, white or natural color PVC vinyl, or similar screening with approval of the Director of Planning.

D. Unless otherwise noted, screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.

5. Setbacks shall be as follows:

A. Minimum Front (Hillside) Setback: 20 feet (east property line), provided that the minimum required front setback may be reduced pursuant to Sec. III-E.2.e(5) of the Wichita-Sedgwick County Unified Zoning Code.

B. Minimum Rear (Lorraine) Setback: 23 feet (west property line) from Lorraine to parking or traffic circulations and 73 feet to the building.

C. Minimum Interior Side Setback: Zero feet, but if an interior side setback is provided it shall be at least five feet in width. The west most 151 feet of the south property line shall be 25 feet.

D. Minimum Street Side (Orme) Setback: 10 feet (north property line).

6. Building Height: Up to 35 feet.

7. Building size shall be limited to that of the Neighborhood Retail zoning district: no individual use may exceed 8,000 square feet of floor area.

8. Uses shall be limited to the following LC Limited Commercial ("LC") zoning district uses:

A. Single-family, Duplex, Multi-family, Assisted Living, Day Care Limited, Day Care General, Government Service, Safety Service, Animal Care Limited, Automated Teller Machine, Bank or Financial Institution, Convenience Store, Funeral Home, Medical Services, Monument Sales, Nurseries and Garden Centers, Office General, Personal Care Service, Personal Improvement Service, Post Office Substation, Printing and Copying Limited, Restaurant, Retail General (except the following retail general uses are prohibited: liquor store, entertainment establishment, pawnshop, businesses that accept vehicle titles or other property as security for loans, drive through service), Service Station and Vehicle Repair Limited.

B. No drive though lanes are allowed.

9. Complete access control is granted along Lorraine Avenue.

10. Signage shall be per the sign code except that there shall not be any ground or pole signage on the Lorraine frontage nor shall there be any building signage facing west.

11. Trash pickup is permitted only between the hours of 7:00 a.m. and 9:00 p.m.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this _____ day of _____, 2010.

ATTEST:

_____ _____

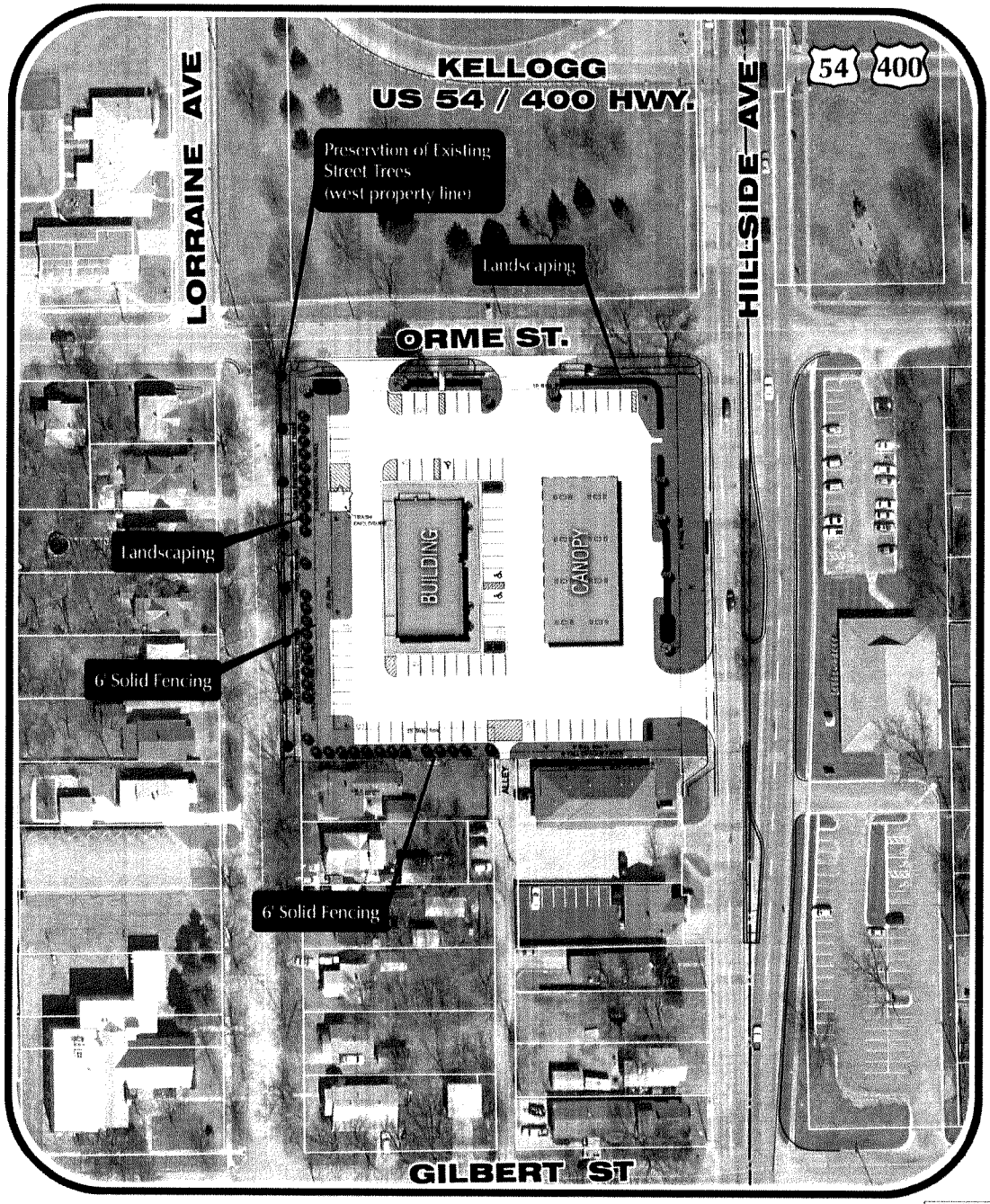
Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

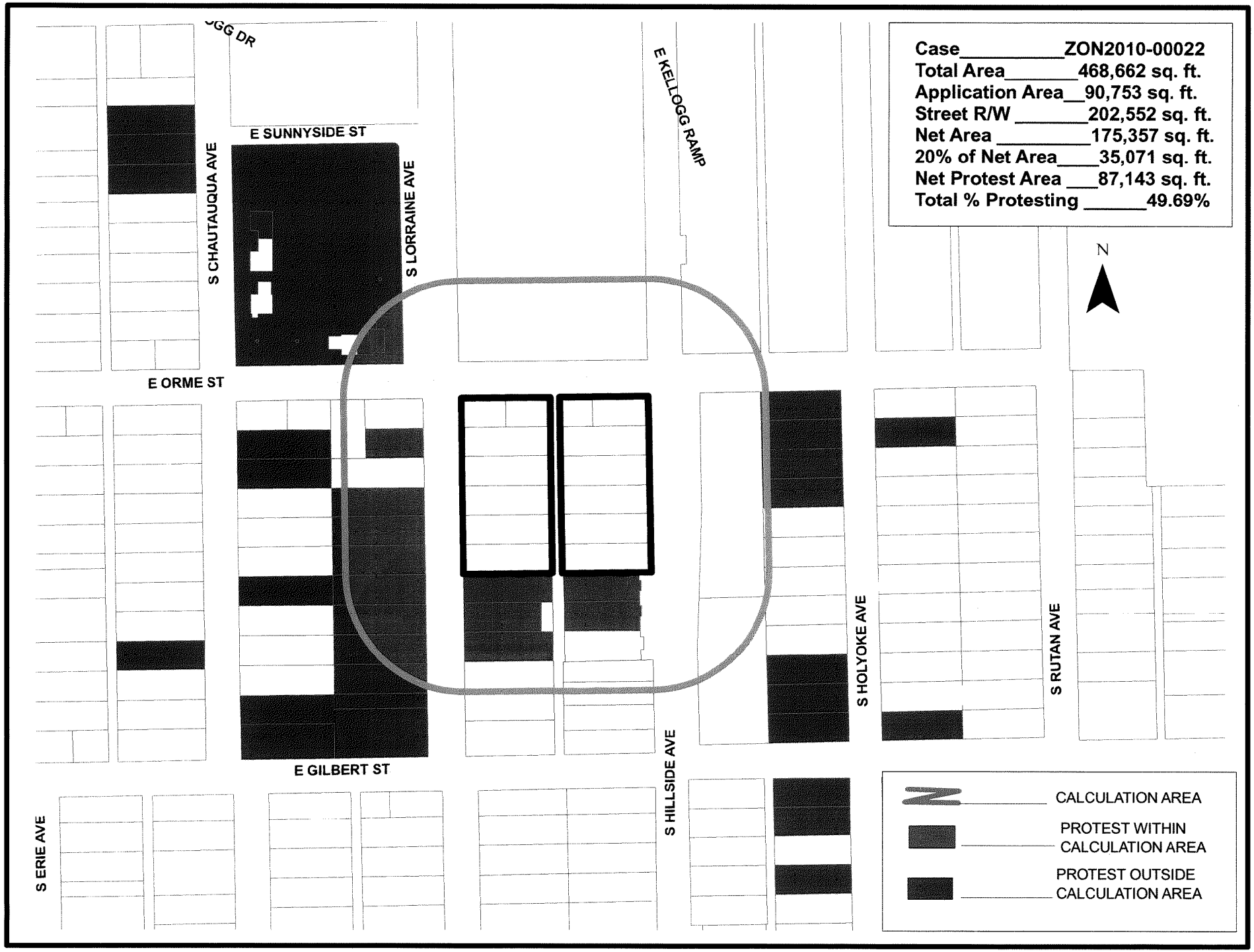


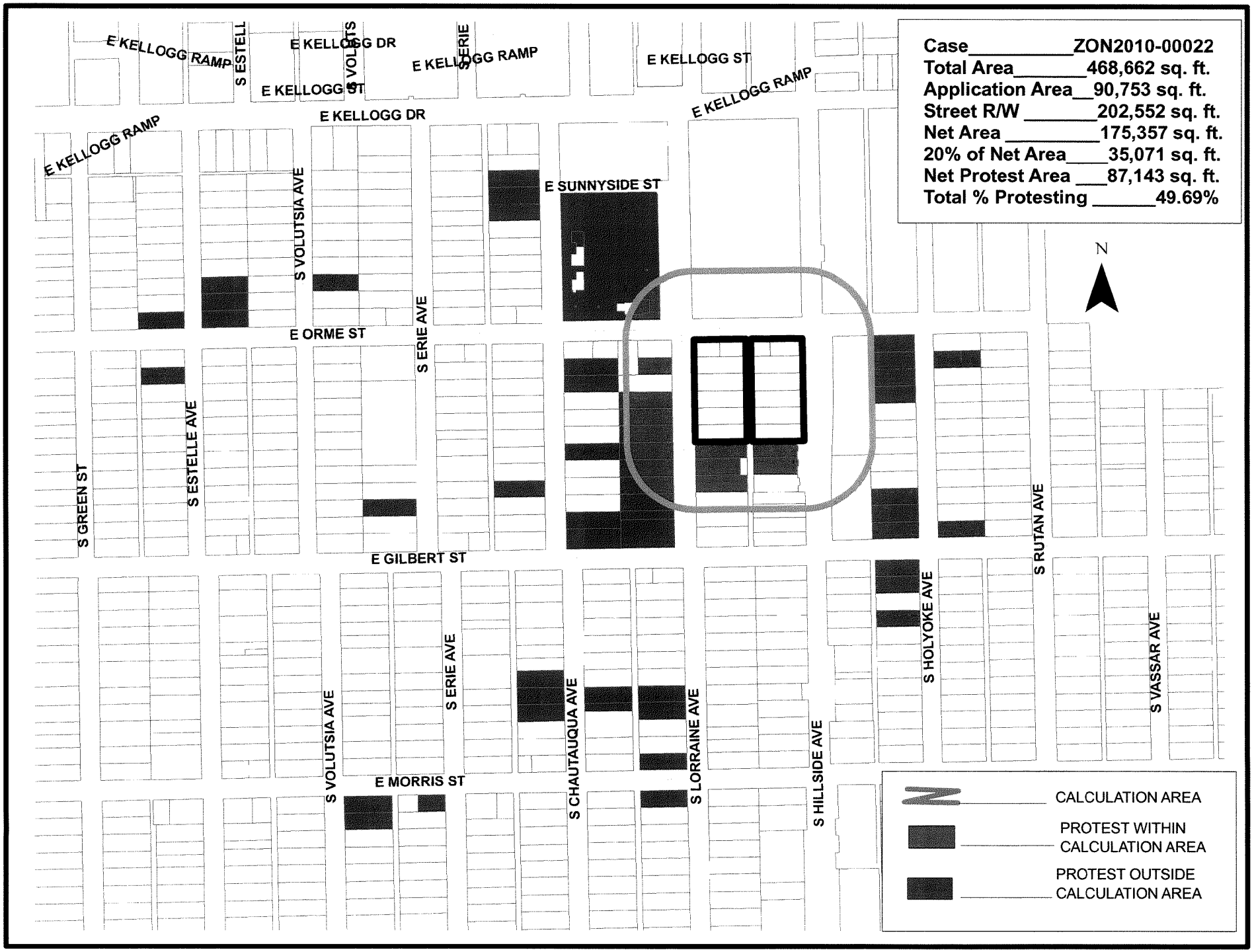
Kellogg & Hillside

Conceptual Layout

North

MKEC 28 YEARS SINCE 1982


Case ZON2010-00022
Total Area 468,662 sq. ft.
Application Area 90,753 sq. ft.
Street R/W 202,552 sq. ft.
Net Area 175,357 sq. ft.
20% of Net Area 35,071 sq. ft.
Net Protest Area 87,143 sq. ft.
Total % Protesting 49.69%
N
E SUNNYSIDE ST
S CHAUTAUQUA AVE
S LORRAINE AVE
E KELLOGG RAMP
E ORME ST
E GILBERT ST
S HOLYOKE AVE
S RUTAN AVE
S HILLSIDE AVE
S ERIE AVE
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA


Case ZON2010-00022
Total Area 468,662 sq. ft.
Application Area 90,753 sq. ft.
Street R/W 202,552 sq. ft.
Net Area 175,357 sq. ft.
20% of Net Area 35,071 sq. ft.
Net Protest Area 87,143 sq. ft.
Total % Protesting 49.69%
N
E KELLOGG RAMP
S ESTELLE
E KELLOGG DR
S VOLUTSIA
E KELLOGG ST
S ERIE
E KELLOGG RAMP
E KELLOGG ST
E KELLOGG RAMP
E KELLOGG DR
E KELLOGG RAMP
E SUNNYSIDE ST
S VOLUTSIA AVE
E ORME ST
S ERIE AVE
S GREEN ST
S ESTELLE AVE
E GILBERT ST
S RUTAN AVE
S HOLYOKE AVE
S VASSAR AVE
S ERIE AVE
S VOLUTSIA AVE
S CHAUTAUQUA AVE
S LORRAINE AVE
S HILLSIDE AVE
E MORRIS ST
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

8-5-10 MAPC HAND OUT ITEM #4

Friday, July 23, 2010

To Whom It May Concern
MAPC (Metropolitan Area Planning Commission)
And
DAB (District Advisory Board)

RE: Case No Zon 2010-00022
QuikTrip Proposal - Hillside & Orme

I am representing my 98 year old mother-in-law, Wyvonna Sindt who has resided at 607 South Lorraine for over 80 years. She has given me her power of attorney for all her legal decisions.

She was very upset to hear that re-zoning of her neighborhood has been proposed in order that a QuikTrip might be constructed on property bordering her own.

Our main concern is that this proposed action will have a negative impact specifically on the property value of her home when a sale of the house is considered which could be very soon. It doesn't take a rocket scientist to know that a 24-hour convenience store with gas pumps will in no way bring any benefit to a quiet, tree-lined, residential neighborhood. New families have been moving to this neighborhood in recent years, drawn by the peaceful, sidewalk-lined neighborhood where their children can play without worries of excessive traffic and crime. This is the kind of neighborhood where people sit out on their front porches and enjoy the close-knit community spirit of a re-born neighborhood. Many homeowners in this area have made costly and extensive renovations to their homes in an effort to rebuild this wonderful family-oriented neighborhood. This is a RESIDENTIAL NEIGHBORHOOD! Is this something you would want across the street from your home?

Additional concerns would be:

- Increased noise
- Increased exhaust pollution
- Increased light pollution
- Increased trash pollution
- Increased crime - all types ranging from vandalism to home invasion to child endangerment to armed robbery with criminals attempting to escape

in a neighborhood filled with trees, bushes, detached garages, etc.

Increased traffic - Traffic on Hillside would double through those blocks if not triple. Not only on Hillside itself, but the traffic will try to escape through the neighborhood in order to avoid trying to make a left turn onto Hillside which will now be much busier street.

Possible ground pollution from leaking tanks

I understand the homeowners on Hillside (most of whose homes are currently listed for sale) may benefit from commercial development but I do NOT think the MAPC should consider allowing this type of development to encroach west affecting Lorraine, Orme and other adjacent streets.

At the homeowners association meeting with the developers on July 21st, a show of hands vote indicated that some 90%-plus of the residents indicated they objected to this type of development. I'm sure their degree of objection is somewhat relative to the distance from their property.

Please consider what is best for the homeowners of this area.

Respectfully,

Robert E McCann
Power of Attorney for Wyvonna E. Sindt

8-5-10 MAPC HANDOUT ITEM #4

Mark W. Schuyler, D.D.S

Restorative, Cosmetic & Implant Dentistry
639 S. HILLSIDE, WICHITA, KS 67211
316-684-4921 316-684-3076 fax

August 5, 2010

To: City of Wichita MAPC

From: Dr. Mark W. Schuyler
639 S. Hillside
Wichita, KS 67211

Re: Case # ZON2010-00022

I would like to voice my OPPOSITION against the re-zoning, to LC, of the property immediately north of my business located at the intersection of Hillside and Orme. My property is a Dental Office immediately south of the proposed zoning area. I have a number of issues with granting the site LC.

1. Safety

I have been in business at this location for over 12 years, and I feel I have good grasp of the vehicular traffic patterns on Hillside in front of my property. Hillside is a very busy traffic arterial. I observe the traffic through my operator window throughout the entire day. I also travel to the intersection of Harry and Hillside quite often. The amount of traffic in and around the existing QuikTrip is enormous. Placing a QuikTrip at the proposed site will overwhelmingly increase the traffic on my part of Hillside. This proposed site and it's design have a potential to make this area, in my opinion, a very dangerous area to drive or walk.

I foresee traffic traveling north on Hillside and wanting to turn into the south entrance of the proposed QuikTrip being stacked up beyond the three car left turning bay on Hillside. The traffic hold up will be caused by cars entering from south bound Hillside and also a majority of cars wanting to exit from the south entrance to go both north-bound or south-bound Hillside. The traffic will be a nightmare. I know that if I was driving to this QuikTrip north-bound on Hillside, I would learn very quickly that I could get to the QuikTrip more rapidly by turning west on Gilbert and then transiting north on Lorraine in order to gain entrance to QuikTrip by the two Orme entrances . People learn very quickly the path of least resistance. This will substantial increase the traffic inside the Sunny-Side Neighborhood (Mennonite Church and residents).

That is not the half of the traffic snarls that will occur, gaining entrance, from the south, to the QuikTrip is the easy part. Exiting the QuikTrip and wanting to continue north on

Mark W. Schuyler, D.D.S
Restorative, Cosmetic & Implant Dentistry
639 S. HILLSIDE, WICHITA, KS 67211
316-684-4921 316-684-3076 fax

Hillside will be infinitely more complex. Once drivers discover that turning left (to go north) from the south QuikTrip exit, will be near impossible. Drivers will exit the QuikTrip from the Orme exits, and circle back into the Sunny-Side Neighborhood and make the left turn onto Hillside (north) from Gilbert. Again, significantly increasing the flow of traffic along the neighborhood residential street of Lorraine. I feel the safety issue of this traffic flow is unacceptable.

But lets not stop there. If I was a driver trying to get to the QuikTrip from the south, I would soon discover that I could access the alley from Gilbert and create a short cut either by driving down the full alley or cutting through my driveway and accessing the alley to enter QuikTrip.

I want the MAPC to be aware that the largest high school in the state of Kansas, with 1823 students, is located approximately one mile northwest of the this proposed QuikTrip. These students are going to realize that a QuikTrip is within easy driving down Grove and east on Orme. If Orme is not convenient then traffic will travel west on Gilbert. The traffic increase, the danger to neighborhood drivers and pedestrians will be substantial due to race way that will develop between East High and this (ie; car repair garage).

2. Pollution

I am very concerned with the increased amount of pollution that will be created by the proposed QuikTrip. Lets start with the increased amount of NOISE pollution. Hillside is already a very noisy street. My office is insulated to help prevent sound from traffic on Hillside. Didn't work the noise is still substantial. Adding the noise that will be produced by a QuikTrip will be enormous, both for my business and the surrounding neighborhood. I am concerned with the amount of AIR pollution arising from a QuikTrip. Idling cars, fuel pump emissions, people smoking will substantially reduce the quality of life in the area. My main concern is with the potential GROUND WATER CONTAMINATION that can occur with an underground gasoline storage facility. I understand that the KDHE highly regulates this kind of potential problem, but the risk still remains. What effect will ground water contamination have on the property values of residents and business in the area? What guarantee is there that a contamination site will be cleaned up, who is affected? I still remember the problems associated with the midtown/Coleman Co. ground water contamination site and the affects that it had on developing the Old Town District.

3. General Office Zoning

Mark W. Schuyler, D.D.S
Restorative, Cosmetic & Implant Dentistry
639 S. HILLSIDE, WICHITA, KS 67211
316-684-4921 316-684-3076 fax

I would like to see the Hillside Corridor between Kellogg and Harry to remain consistent with the current trend in zoning. A large majority of business sites along this corridor are zoned GO. All the business sites, every one of them, take up the property exclusively between Hillside and the alleyway, the Hillside lots only. None of the business properties encroach onto the side streets of Lorraine or Holyoke, thus leaving the inner neighborhoods intact. I would like to see this precedent remain intact! This is the main reason I located my Dental Practice to this area. It look like an excellent opportunity to develop along Hillside which was being developed into a medical related corridor from Wesley Hospital to St. Joe Hospital.

4. QuikTrip

I have been in private practice for over 27 years, my previous location was on Bluff St, across from the old Scotch & Sirloin. Over those years I have observed the QuikTrip corporate model of building a store, using it for about 10 years and then abandoning the site. Eventually a business moves into the vacant building. For example: Oliver and Lincoln, Hillside and Lincoln, Hillside and Harry (proposed). I know there is proposal to create a protective overlay. My concern is, in 10-15 years, what will go into this building once QuikTrip decides to abandon the site? What will a LC zoned business (ie; car repair garage) do to the value of my property and the value of the home owners in the neighborhood?

Zoning this property LC creates a crap shoot, a gamble that whatever business goes into this site, 10-15 years from now, will enhance the value of the properties in the area.

Zoning this property GO will give predictability to what can go into this site, and make it compatible with the medical related corridor Hillside has developed into.

5. Comparisons

The developer for the rezoning site presented information the the DAB meeting, Aug. 02. During this presentation several QuikTrips from around Wichita were shown and the developer discussed how these sites were compatible to their areas and fit into their neighborhoods. These QuikTrips were located at, 21st and 127th east, and 13th and Maize Rd. Both sites were described as blending in with the residential nature of the neighborhoods. To show these existing QuikTrips relating to their neighborhoods and trying to compare them to how a proposed QuikTrip will relate to the Sunny-Side Neighborhood is like trying to compare Apples to Oranges. Showing QuikTrips in modern neighborhood developed in the 80"s, 90's, and 2000's is ridiculous. Those neighborhoods were developed to have commercial sites built into the neighborhoods,

Mark W. Schuyler, D.D.S
Restorative, Cosmetic & Implant Dentistry
639 S. HILLSIDE, WICHITA, KS 67211
316-684-4921 316-684-3076 fax

with substantial buffering from residential areas.

Shoe horning a QuikTrip into an existing neighborhood, which was established in 1886, and developed in the 20's, 30's, and 40's is like trying to place a round peg in a square hole. With the QuikTrip being the round peg and the Sunny-Side Neighborhood being the square hole.

6. Debate

I have certainly learned a lot in the past 4 weeks, since receiving my notice of zoning change. I have listened to quite a number of people and I am impressed with their points of view. Nobody in this room is against QuikTrip as a corporate business in Wichita, I bet you that all of us have done business with a QuikTrip one time or another.

I have listened to the developer touting the benefits of the existing QuikTrips facilities in the Wichita Area. I have listened to the Sunny-Side property owners, both residents and businesses, pointing out the problems of zoning this area LC.

After all of the debate, I still have not heard a persuasive argument how zoning this site LC will increase the values of our properties in the Sunny-Side area.

I still have not heard a persuasive argument how zoning this site LC will create positive benefit to the residents of the Sunny-Side Neighborhood.

I still have not heard a persuasive argument how zoning this site LC will increase the safety of the residents of the Sunny-Side Neighborhood.

I still have not heard a persuasive argument how zoning this site LC will increase the quality of life of the residents of the Sunny-Side Neighborhood.

Therefore, I urge the MAPC to deny the request for re-zoning to LC

Thanks you,

Dr. Mark W. Schuyler

EXCERPT OF THE AUGUST 5, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2010-22 – Eleven different property owners / MKEC Engineering Consultants (A listing of owners is available in the planning department) requests LC Limited Commercial zoning subject to a PO Protective Overlay on property zoned TF-3 Two-Family Residential on property described as;

All of Lots 49 thru 72 inclusive, Block 8, Sunny-Side Addition to Wichita, Sedgwick County, Kansas, generally located south of US 54, on the southwest corner of Orme Street and Hillside Avenue.

BACKGROUND: The applicants are requesting LC Limited Commercial ("LC") zoning subject to a Protective Overlay on approximately 2.09 acres located at the southwest corner of East Orme Street and South Hillside Avenue. The site is currently zoned TF-3 Two-family Residential ("TF-3"), is platted into 26 lots - Lots 49-72, Block 8, Sunny-Side Addition - that are owned by 11 different owners. The lots are developed with single-family residences built between 1920 and 1940. The subject property has 300 feet of frontage on Hillside Avenue and on Lorraine Avenue, and approximately 324 feet (including the 20-foot alley) of frontage on Orme. A 16-foot wide alley runs south from Orme through the center of the application area and beyond to Gilbert Street, located one block south of Orme. (To incorporate the alley into the project, either a replat or a vacation is required. An appropriate terminus to the alley would be decided as part of either of those two actions.)

The applicants' propose that the LC zoning be subject to the following Protective Overlay:

1. Architectural Controls:

A. All buildings within the subject property shall share a uniform architectural character, color and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominate exterior façade material.

2. Landscaping:

A. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.

B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating type, location and specifications for all plant materials.

C. Existing street trees along Lorraine Avenue are to be preserved, supplemented with evergreen screening east of the existing street trees. Evergreens shall be spaced at a rate of one evergreen per 20 feet.

D. If existing trees are not preserved, evergreen screening shall apply to adjoining residential use properties along the west line and the west most 151 feet of the south line at a rate of one evergreen per six feet. When planted, evergreens shall be not less than six feet tall and shall be maintained to provide an opaque living wall.

E. Berms may be utilized to gain additional elevation for the evergreen screening.

3. Lighting:

A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, lamps, etc.).

B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.

C. Light poles including the above ground base shall be limited to a maximum height of 22 feet tall and 15 feet tall when located within 200 feet of residential use property.

4. Screening:

A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials.

B. Trash receptacles, loading docks and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) façade hiding them from ground view.

C. Six-foot tall opaque screening fencing shall be utilized along or near the west property line and the west most 151 feet of the south line of the subject property. Opaque fencing may be constructed of or a combination of the following materials: masonry, cast or poured concrete, wood, white or natural color PVC vinyl, or similar screening with approval of the Director of Planning.

D. Unless otherwise noted, screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.

5. Setbacks shall be as follows:

Minimum Front Setback: 20 feet (east line), provided that the minimum required front setback may be reduced pursuant to Sec. III-E.2.e(5) of the Wichita-Sedgwick County Unified Zoning Code.

Minimum Rear Setback: 25 feet (west line)

Minimum Interior Side Setback: Zero feet, but if an interior side setback is provided it shall be at least five feet in width. The west most 151 feet of the south line shall be 20 feet.

Minimum Street Side Setback: 10 feet (north line)

6. Building Height: Up to 35 feet.

7. Building size shall be limited to that of the Neighborhood Retail zoning district: no individual use may exceed 8,000 square feet of floor area.

8. Uses shall be limited to the following LC Limited Commercial ("LC") zoning district uses:

A. Single-family, Duplex, Multi-family, Assisted Living, Day Care Limited, Day Care General, Government Service, Safety Service, Animal Care Limited, Automated Teller Machine, Bank or Financial Institution, Convenience Store, Funeral Home, Medical Services, Monument Sales, Nurseries and Garden Centers, Office General, Personal Care Service, Personal Improvement Service, Post Office Substation, Printing and Copying Limited, Restaurant, Retail General, Service Station and Vehicle Repair Limited.

B. No drive though lanes are allowed.

9. Complete access control is granted along Lorraine Avenue.

Zoning code compatibility standards trigger a 25-foot setback along the rear- and side yard where more intense zoning than TF-3 is located contiguous or across the street from TF-3 or SF-5, Single-family Residential ("SF-5") unless separated by a freeway or expressway. The proposed setback of 20 feet along the south does not meet the minimum standards, and will require an administrative adjustment.

Nearby properties are zoned General Office ("GO"), TF-3 and un-zoned right-of-way. The properties located to the west, across Lorraine, and the contiguous western half-block located to the south are zoned TF-3 and are developed with single-family residences. Land contiguous to the eastern half-block located south of the subject site is zoned GO, and is developed with office uses, as is the property located east across Hillside. Land to the north of Orme is un-zoned right-of-way, and is part of the Hillside-U.S. 400 interchange. There is also a church located southwest of the site, across Lorraine.

In general, the homes in the application area are older but well maintained residences. The two blocks facing Lorraine south of Orme are tree lined and have the quintessential feel of a typical neighborhood of the 1920s, 1930s and 1940s. The Hillside portion of the application area has less of a neighborhood feel than the Lorraine side.

Prior to 1992, the land use policy for this segment of Hillside was to look favorably on office zoning for the lots that have frontage on Hillside. In looking at the development that has occurred between the three lots located immediately south of the application area north to Central, there are a significant number of lots that front Hillside that have been rezoned to GO and developed with medical related uses, creating a significant medical corridor anchored on the north by Wesley (northeast corner of Central and Hillside) and on the south by Via Christi-St. Joseph (east of Hillside, north of Harry) hospitals.

CASE HISTORY: In addition to TF-3 zoning, the two lots located at 611 South Hillside received a variance, BZA 18-91, to reduce the front yard setback to allow an enclosed porch to encroach five feet into the required setback. Sunny-Side Addition was recorded in 1886.

ADJACENT ZONING AND LAND USE:

NORTH:	Un-zoned right-of-way; Kellogg
SOUTH:	GO, TF-3; Dental and other offices, single-family residences
EAST:	GO; Medical and dental offices
WEST:	TF-3; Single-family residences, church

PUBLIC SERVICES: At this location, Hillside has approximately 90 feet of street right-of-way. (South of the subject property Hillside widens to 100 feet of right-of-way for 150 feet where the Schuyler Addition and the Blasi Additions are now located.) Hillside right-of-way is developed as a four-lane, median divided, arterial while at the intersection of Orme and Hillside; Hillside is five-lanes wide with a center left turn lane. Hillside, between Kellogg and Gilbert, carries 32,421 average daily vehicle trips. Orme Street is a local street with 60 feet of right-of-

way, as is Lorraine Avenue. A 16-foot wide alley is located down the center of the block from Orme to Gilbert. An eight-inch sanitary sewer and manhole(s) are located in the alley and in Orme. Water lines are located in both Lorraine and Hillside.

Two acres of retail developed at 35 percent gross floor area (30,492 square feet) could potentially generate 40 average daily trips per 1,000 square feet of leasable area or 1,219 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* map depicts the application area as appropriate for "urban residential." This land use category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. In the past, the Metropolitan Area Planning Commission (MAPC) has voted both to approve and to deny other requests to rezone residential lots that front an arterial to a more intensive zoning district.

Commercial locational guidelines state that commercial sites should be encouraged to locate near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Local and collector residential streets may be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas.

Protective overlays may be used only to be more restrictive than the minimums established by code. Deviations from the minimum standards established by code can only be approved by other appropriate applications, such as administrative adjustments, amendments, variances or rezoning.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Nearby properties are zoned GO, TF-3 and un-zoned right-of-way. The properties located to the west, across Lorraine, and the contiguous western half-block located to the south are zoned TF-3 and are developed with single-family residences. Land contiguous to the eastern half-block located south of the subject site is zoned GO, and is developed with office uses, as is the property located east across Hillside. Land to the north of Orme is un-zoned right-of-way, and is part of the Hillside-U.S. 400 interchange. There is also a church located southwest of the site, across Lorraine. On the Lorraine Avenue side of the proposed project, the overall character of the

neighborhood is that of a quintessential neighborhood of the 1920s, 1930s and 1940s, complete with the neighborhood church. The Hillside side of the proposed project has less of the neighborhood feel now that Hillside is a four-lane arterial with office development located across the street and immediately to the south.

2. The suitability of the subject property for the uses to which it has been restricted: The properties are zoned TF-3, and are developed with single-family residences. The TF-3 district has a fairly limited list of permitted uses such as: single-family, duplex, group home, church, convalescent care facility limited, library, utility minor, recycling collection station private, park or day care limited. There are a few properties located within the application area that have "for sale" signs. Staff has been advised these properties may have been offered for sale for some time. For the most part, the homes in the area appear to be well maintained and reflect continued re-investment in the properties. It is not unusual to see applications for more intense zoning for the half-block fronting an arterial street (e.g. Central between Edgemoor and Woodlawn or the west side of Oliver between Central and East Elm Street). It is somewhat unusual for an application to seek retail commercial zoning on the full block width but there are examples where LC zoning subject to restrictions have been approved (northeast corner of Oliver and Central or east of Ridge south of Maple). The site could continue to be used and have economic value as currently zoned. LC zoning is not typically seen as a buffer zoning district like GO General Office ("GO"), NO Neighborhood Office ("NO") or some of the multi-family residential districts (MF-18 through B). However, with appropriate development standards, on numerous occasions LC zoning has been approved contiguous to, or across the street, from TF-3 or SF-5 zoned and developed properties.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning will introduce a more intense zoning district that is first found some 790 feet to the south at the intersection of Hillside and Morris and 721 feet, as the crow flies, to the northwest, fronting Kellogg Drive, west of Chautauqua. There is considerable GO zoning immediately south and east of the site, and, in general, Hillside from Lewis Street north to Douglas has significant sections zoned GO and developed with medical offices. However, the applicants have submitted a Protective Overlay that contains a restricted set of development standards when compared to standard LC requirements, such as: a restricted list of permitted uses, complete access control to Lorraine and the preservation of existing mature trees located along Lorraine, building height is limited to 35 feet and the prohibition of drive through lanes.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not in conformance with the *2030 Wichita Functional Land Use Guide* map that depicts the application area as appropriate for "urban residential." However, the property is located immediately south of the Kellogg / U.S. 400 interchange. Over time, staff has seen requests for more intense zoning at similarly situated locations, such as the northwest corner of that same intersection that was zoned TF-3 but is now zoned PUD-13 and developed with self-service warehouse, and the southwest corner of the interchange of Kellogg / U.S. 400 and Oliver that is zoned LC subject to a CUP.

5. Impact of the proposed development on community facilities: Traffic will likely increase with LC zoning; however, existing municipal facilities are adequate to meet projected volumes. All other services exist.

If, in the opinion of the planning commission, LC zoning is viewed as appropriate zoning for the subject property, it is recommended that the zone change be subject to all applicable codes and the following Protective Overly:

1. Architectural Controls:

A. All buildings within the subject property shall share a uniform architectural character, color and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominate exterior façade material.

2. Landscaping:

A. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.

B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating type, location and specifications for all plant materials.

C. Existing street trees along Lorraine Avenue are to be preserved, supplemented with evergreen screening east of the existing street trees. Evergreens shall be spaced at a rate of one evergreen per 20 feet.

D. If existing trees are not preserved, evergreen screening shall apply to adjoining residential use properties along the west line and the west most 151 feet of the south line at a rate of one evergreen per six feet. When planted, evergreens shall be not less than six feet tall and shall be maintained to provide an opaque living wall.

E. Berms may be utilized to gain additional elevation for the evergreen screening.

3. Lighting:

A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles, lamps, etc.).

B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.

C. Light poles including the above ground base shall be limited to a maximum height of 22 feet tall and 15 feet tall when located within 200 feet of residential use property.

4. Screening:

A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials.

B. Trash receptacles, loading docks and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) façade hiding them from ground view.

C. Six-foot tall opaque screening fencing shall be utilized along or near the west property line and the west most 151 feet of the south line of the subject property. Opaque fencing may be constructed of or a combination of the following materials: masonry, cast or poured concrete,

wood, white or natural color PVC vinyl, or similar screening with approval of the Director of Planning.

D. Unless otherwise noted, screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.

5. Setbacks shall be as follows:

Minimum Front Setback: 20 feet (east line), provided that the minimum required front setback may be reduced pursuant to Sec. III-E.2.e(5) of the Wichita-Sedgwick County Unified Zoning Code.

Minimum Rear Setback: 25 feet (west line)

Minimum Interior Side Setback: Zero feet, but if an interior side setback is provided it shall be at least five feet in width. The west most 151 feet of the south line shall be 20 feet.

Minimum Street Side Setback: 10 feet (north line)

6. Building Height: Up to 35 feet.

7. Building size shall be limited to that of the Neighborhood Retail zoning district: no individual use may exceed 8,000 square feet of floor area.

8. Uses shall be limited to the following LC Limited Commercial ("LC") zoning district uses:

A. Single-family, Duplex, Multi-family, Assisted Living, Day Care Limited, Day Care General, Government Service, Safety Service, Animal Care Limited, Automated Teller Machine, Bank or Financial Institution, Convenience Store, Funeral Home, Medical Services, Monument Sales, Nurseries and Garden Centers, Office General, Personal Care Service, Personal Improvement Service, Post Office Substation, Printing and Copying Limited, Restaurant, Retail General, Service Station and Vehicle Repair Limited.

B. No drive though lanes are allowed.

9. Complete access control is granted along Lorraine Avenue.

10. Off-site signs and billboard signs are prohibited.

11. Prior to publishing the ordinance effecting the zone change, the property shall be re-platted within one year from the date of City Council approval.

DALE MILLER, Planning Staff presented the Staff Report. He said Staff suggested that no signs be allowed on the Lorraine side of the property.

SHERMAN (In @1:48 P.M.)

JOHNSON asked how far the closest parking area to Lorraine Avenue was.

MILLER commented that there was a 25-foot setback; however, he said the agent had a more detailed presentation.

GEORGE LAHAM, LAHAM DEVELOPMENT, REPRESENTATIVE FOR QUIK TRIP ON THIS APPLICATION referenced the site plan. He commented that the proposed Quik Trip would be a walk-through building of less than 8,000 square feet with gas pumps in front. He said there will be two openings along Orme Street with landscaping. He said the west property line will have a 40 to 50-foot landscape buffer along Lorraine Avenue where they will preserve the street trees and additional shrubs and firs. He said the south property line will also be landscaped and there will be a six-foot wooden fence half way across the property. He mentioned that Hillside Avenue has a solid median, but they would like to redevelop the median to create a left turn bay northbound on Hillside. He said the street will need to be widened to allow that to happen; however, they will not require any additional right-of-way to make the proposed street improvements. He referred to a detailed drawing of the Lorraine Avenue landscape buffer, and commented that they would preserve the existing street trees and fill in with additional shrubs and trees. He added that they would create a berm with a six-foot solid fence across the entire west side of the property as additional buffer. He said the distance from the east curb of Lorraine Avenue to the parking area is 40 feet and in some areas 50-55 feet. He said there will be a 40-foot buffer along Lorraine Avenue. He said the distance from the east curb of Lorraine to the building itself is approximately 90 feet and it is approximately 120 feet from the west side curb of Lorraine Avenue. He said the utilities in the alley will remain and the developer will handle utilities on the site itself. He briefly reviewed allowed and non-allowed uses they are proposing in the protective overlay. He added that the protective overlay will remain with the property, not just with this particular user. He said any future change to uses would require that the proposal come back through the zoning process. He briefly reviewed other site restrictions contained in the proposed protective overlay including limiting the height of parking lot lights to 15 feet near residential areas.

MILLER commented that the 15 feet height limitation was a condition of the Unified Zoning Code (UZC).

LAHAM commented that they are also limiting the building size to approximately 8,000 square feet, even though they are allowed to build up to 25,000 square feet on a site this size. In addition, he said they will limit signage to one monument sign on Hillside Avenue.

MOTION: To allow the agent two additional minutes.

HENTZEN moved, **SHERMAN** seconded, the motion, and it carried (12-0).

LAHAM commented that Quik Trips are located in residential areas. He referenced several locations including Maize Road and 13th Street; Tyler Road and Maple Avenue and East 21st Street and 127th Street. He said Quik Trips are considered "Safe Places" where individuals may go for help. He said Quik Trip staff is trained to handle various situations and contact the proper authorities. He said Quik Trips have a good relationship with the Wichita Police Department and provide free beverages and a place for police officers to do paperwork. He said Quik Trips provide increased police presence in areas where they are located.

HILLMAN asked who will pay for the widening of Hillside and changing the median. He also asked what time was the trash pickup for Quik Trips located in residential areas.

LAHAM said they will work with City staff on the proposed street improvements, but that they will bear the cost and not the neighboring properties. He said he did not have a specific time for the trash pick and that he would check on that; however, he said they will be conscientious of surrounding neighbors.

MILLER STEVENS expressed concern about traffic flow and access to the site since she believes traffic to the location will be drawn off of Highway 54 (Kellogg). She wondered about traffic bleeding into the rest of the neighborhood. She commented that Orme is a very narrow street and mentioned that with the configuration of the site, it will be difficult to get back to Highway 54.

LAHAM responded that people may enter or exit the site from south Hillside Avenue or from Orme Street. He said people will not be able to turn left onto Hillside Avenue from the site, but could turn left from Orme Street onto Hillside to get back to Kellogg.

DENNIS asked if the applicant agreed with the alternative recommendation by staff including the restrictions on signage at the site.

LAHAM said they are in agreement with all Staff suggestions and recommendations.

JOHNSON asked what will be the height of the barrier along Lorraine Avenue.

LAHAM said they don't have a specific height, but added that the fence will be six feet and the berm will be anywhere from three to six feet, so the barrier may be as high as 10 feet in some areas.

JOHNSON asked the reason for two entrances/exits onto Orme Street.

LAHAM said for maneuverability and traffic circulation.

JOHNSON asked if the applicant would be willing to limit trash pick from 7:00 a.m. to 9:00 p.m.

LAHAM responded that seemed like a reasonable request.

MARNELL asked if the applicant would be willing to make the berm a minimum of three feet above the Lorraine Avenue curb.

LAHAM commented that he did not think that would be a problem; however, he said he would have to visit with Quik Trip. He added that he did not believe there was a required minimum.

MILLER commented that the UZC required a height of six feet, but added that there is nothing that keeps the Commission from making the suggested recommendation of three feet above the Lorraine Avenue curb.

DOWNING said if traffic at the location generated the need for a signal light on Hillside Avenue, would Quik Trip be able to participate in the cost of that.

LAHAM said anticipated traffic volumes don't justify the need for a signal at the location, and it has not been addressed or brought up by Staff.

LEO LENTON, 637 SOUTH HOLYOKE said this was a rental property of his. He asked if the Commission needed anything from him because he received a letter of notification. He asked how this proposal was going to affect property on east side of Hillside Avenue.

MILLER said the application was the area shown on the site plan. He said the zoning will not change east of the site. Also, he mentioned for the record that DAB I voted unanimously to deny the application.

_____GLEASON, 623 SOUTH VOLUTSIA, PRESIDENT, SUNNYSIDE NEIGHBORHOOD ASSOCIATION said she has lived in the area 22 years. She said her main concern is traffic. She said this is a small neighborhood and they would like to keep it safe and keep the traffic down. She said she loves Quik Trip, but she doesn't know if she would want one that close drawing all the congestion from Kellogg to the area.

DR. MARK SCHUYLER, 639 S. HILLSIDE said his office is just south of the site. He said he was present to voice opposition to the proposed rezoning of the site to LC Limited Commercial. He said foremost it is a safety issue. He said he has been at that location 12 years and has a good grasp of the vehicular traffic along Hillside Avenue, and foresees the amount of traffic being increased from Kellogg. He said the amount of traffic is enormous and trying to get in and out of the Quik Trip at Harry Street and Hillside Avenue will be difficult. He said he is also concerned about how patrons will enter and exit the facility. He said if the turn bay only handles three vehicles he can see it jammed up quite a bit. He said people will take the path of least resistance and cut through the neighborhood along Gilbert Street, up to Lorraine Avenue and onto Orme Street which he believes is a safety hazard. He also mentioned people coming and going through his parking lot and entering or exiting through the alley. He said one of the DAB members mentioned exiting north on Hillside to get to Kellogg and trying to go left against traffic and how that is a hazard. He said this proposal will substantially increase traffic in the neighborhood. He said other issues included noise pollution, air pollution, and the possibility of ground water contamination. He said this will have an adverse affect on his property values, and the surrounding resident's property values. He said he believes precedence has been set along Hillside to zone GO General Office and to have the facilities face Hillside, not to encroach onto Lorraine Avenue. He said he knows Quik Trip is a good corporate partner in the City of Wichita, however, he said their corporate model has been to take over a site, build, and then abandon the site and move on.

MOTION: To allow the speaker two additional minutes.

HILLMAN moved, **JOHNSON** seconded, the motion, and it carried (12-0).

He said once the site is abandoned, what happens to that facility becomes a Pandora's Box even with the protective overlay. He mentioned the Quik Trips located around the City and commented that when the subdivisions were developed in the 70's, 80's and 90's for those neighborhoods, those commercial areas were preplanned. He said this proposal is "shoe horning" a Quik Trip into an older neighborhood. He likened it to putting a round peg into a square hole — it just doesn't fit. He said he is very much against that concept. He asked what the benefits of this rezoning were to the neighborhood. He said he would like to hear the argument that LC will increase the value of properties, benefit the residents of the Sunnyside neighborhood by increasing safety and increasing their quality of life. He concluded by urging the MAPC to deny the requested rezoning to LC.

JOHNSON asked Dr. Schuyler to explain his theory of using Gilbert Street. He asked if there was a light at Gilbert and Hillside Avenue to help cars get out on Hillside Avenue faster.

DR. SCHUYLER responded that East High School is close by and that kids will come down Grove Street, Orme Street or Gilbert Street to get to the Quik Trip. He said there was no light at Gilbert Street and Hillside Avenue.

JOHNSON asked what his property was before becoming a medical building.

DR. SCHUYLER said he believes it was three rental houses.

BOB MCGANN, 1508 ROBIN RIDGE said he was present to represent his 98-year old mother-in-law who lives at 607 S. Lorraine Avenue and has lived there for almost 80 years. He referenced his letter which outlined his concerns. He added that this development will have a very negative impact on the value of her property and that she will need the money on the sale of her house for assisted living expenses. He said she is also concerned that this proposal will have an adverse effect on all of her neighbors. He said this is a residential area where people sit out on their front porches in the evening when the weather is nice. He asked the Commission to think about what was best for the homeowners in the area.

CHARLES BISHOP, 3024 EAST ORME STREET said he lived cattycorner from the proposed development. He said the loss of home value was a big problem and added that they just purchased their house two years ago. He said this is a business intruding into an established residential neighborhood which will diminish the value of their property. He said the applicant is trying to fit something into an area where it just does not belong. He said traffic is an issue and that he gets onto Hillside Avenue from Gilbert Street everyday and that it is very difficult especially during morning and afternoon rush hours. He said traffic travels approximately 40 miles per hour down Hillside Avenue and that getting on to the avenue is difficult and dangerous. He said this proposal will just create more traffic problems and added that the traffic pattern is woefully inadequate. He said the increase in foot traffic will also increase the opportunity for crime in the neighborhood. He said Orme Street is not a major street and that this proposal will create a traffic pattern down Orme Street which will cause problems getting back onto Hillside Avenue. He urged the Commission to adopt the District Advisory Board's (DAB's) recommendation and deny the requested rezoning.

BILL JONES, 615 SOUTH LORRAINE AVENUE said he lived directly across from this site. He said this matter is urgent and quite serious. He said the 1:30 p.m. hearing time does not allow other property owners who work to voice their opinions on the proposal. He said he has spoken to at least 30 people in the last couple of weeks who are against the proposal. He said City Planning Staff and the DAB have both recommended that the application be denied. He mentioned that there was little transparency as to what was proposed at the site until about two weeks ago. He said up to that time, the neighborhood understood that this site was supposed to become a medical or office building. He said many of the residents have made improvements to their property to increase the value and be part of this community. He said the last appraisal of his property indicated an increased value of 30 %. He said other people in area are doing the same thing. He said home values will not increase no matter how large a buffer is built between the Quik Trip and Lorraine Avenue. He said a Quik Trip will not generate quiet and peace in the neighborhood. He said one entry on Hillside Avenue is a recipe for monumental traffic congestion and two entrances/exits onto Orme Street will also create traffic problems in the area. He said he understands that the Quik Trip at Harry and Hillside will be closed so traffic from that facility will move to this location, which he understands will be a 32-pump facility. He said he strongly urged denial of the application because he did not think it is in the best interest of the community. He said he also has signed protest petitions from the neighborhood to the east of the site asking the Commission please don't change the zoning.

PATRICIA ORENDER, 616 SOUTH CHAUTAUQUA AVENUE said she has lived in the area 23 years and that she loves the central location and the charm of the neighborhood. She said they hoped to retire in their house and spent $10,000 on a new roof just recently. She said this is a quality of life issue. She said they have no crime incidents and that this is a quiet neighborhood with great neighbors. She mentioned that one of the applicants owns three rental houses in the area. She commented on Quik Trip being a "Safe Place", but added that there are no elementary or junior high schools in the area and that very few East High School students walk to school. She said the traffic is terrible on Hillside Avenue and that she can't see this being successful without installing a traffic light at Gilbert Street and Hillside Avenue. She mentioned the possibility of installing a barricade at the end of Orme Street so drivers can't go east on Orme Street past Lorraine Avenue. She said Holyoke and Rutan Avenues to the east are landlocked and that people have to drive down to Gilbert Street and to get onto Hillside Avenue to go north. She concluded by saying that she encouraged the Commission to support the DAB and Planning Department decision to deny the request.

SUSI JONES, 615 SOUTH LORRAINE AVENUE said within the Sunnyside neighborhood and the neighborhood to the east 98% of the people are opposed to this rezoning request for reasons already addressed including crime, traffic and property values. She said there are also concerns about environmental issues and provided an article for Commission members review. She said she is also concerned about historic preservation within the neighborhood since most of the homes were built between 1920 and 1940. She said approximately 14 homes have received historical grant funds to improve their homes. She said they would also like to preserve the integrity and quality of life in the community and said you can't put a value on that. She said it is very discouraging as a homeowner for the community to come up against big business that can generate property sales tax for the City and has deep pockets to do what they want to do without

considering the surrounding community and neighborhood. She concluded by providing crime statistics for last month on areas surrounding Quik Trips in the City.

JUDY EBERSOLE, 3010 EAST ORME said she lives on the northwest corner from the proposed site. She said she agrees with things that have already been said, and added that many of the residents of the area walk to church along Lorraine Avenue and Gilbert Street on Sunday mornings and Wednesday evenings so there is foot traffic that crosses Orme Street. She said that a significant increase in vehicular traffic is a big concern for both adults and children.

HILLMAN said he was surprised that none of the 11 or 12 homeowners who agreed to do this project are interested in speaking. He asked if any of the applicants were present.

DR. SCHUYLER responded that it was his understanding that the owners signed a non-disclosure agreement. He said he has not been able to talk to any of them.

HILLMAN asked if the agent was available.

LAHAM said many of these issues were addressed at the neighborhood and DAB meetings. He said many of the same issues came up when they were assembling the properties. He said the information about this location becoming medical offices did not come from them. He said as far as crime issues, Quik Trips increased police presence and not crime. He said they feel they have addressed the traffic issues along Lorraine Avenue and Gilbert Street by limiting access to the roads. He said the primary entry will be off of Hillside Avenue. He said entry from Orme Street will be limited because of the raised median.

JOHNSON asked how many of the residences within the site are owner occupied.

LAHAM said he didn't have the exact count but he knew that several of the houses are rentals. He said some of them have been on the market for a couple of years, and are not in the best of condition. He said there are some very nice homes in the neighborhood and that several homes are rentals. He said he believes most of the residences along Hillside Avenue are rentals.

DENNIS mentioned Dr. Schuyler's concerns about people cutting through his parking lot using the south entrance from the site onto the alley. He asked if the applicant could install a gate or extend the fence across the south alley.

LAHAM said he didn't understand what the benefit would be to a driver to use that ingress/egress. He said they will install a speed bump at the location; however, they do not plan to block off the area, but leave it open for access. He said the Planning Department has not mentioned a safety issue with that proposal. He added not to say that someone couldn't cut across the medical office parking lot.

MILLER commented that Planning Staff felt that the alley was an issue that should be addressed by Traffic Engineering when the plat went to the Subdivision Committee. He said staff is willing to work with the applicant to come up with a solution whether it is a gate, a cul-de-sac or hammerhead.

SHERMAN said he didn't think there were any other layouts like this at other Quik Trips located adjacent to residential lots.

LAHAM commented that the Quik Trips at 13th Street and Maize and Maple and Tyler have residential lots adjacent to them.

SHERMAN asked how the screening at this location compared to screening at other Quik Trip locations.

LAHAM said in his view none of the other Quik Trips are comparable with this location. He said 40 feet of landscape buffer was pretty substantial.

FARNEY commented that the Quick Trip at Maize and Kellogg has a rear public entrance.

LAHAM responded that is an option Quik Trip likes to have, but they also like to be sensitive to the neighborhood. He said they did not feel residents would come to a back entry at this location so there is none and they did not feel a back entry was feasible at this location. He said they were trying to minimize disruption in the neighborhood which was one of the reasons for the 40-foot landscape buffer.

SHERMAN asked about the traffic count on Hillside.

GREG ALLISON, BAUGHMAN COMPANY, AGENT said the traffic count estimate was around 18,000 vehicles.

SHERMAN asked the DAB's reason for denial.

GOLTRY responded the same concerns as the neighborhood -- traffic, safety, changing the character of the neighborhood.

SHERMAN asked about other businesses and non-residential activities in the area.

MILLER commented that there was a church, a dentist office, and other medical offices in the area.

SHERMAN asked about the northwest corner of Gilbert Street and Hillside Avenue. He asked aren't there some home businesses there?

MILLER said there was a Palm Reader, which was a home occupation, but that the area was still zoned TF-3 Two-Family Residential.

MILLER STEVENS referenced the Staff Report and noted a correction, that the traffic count was approximately 32,000 vehicle trips, almost twice the amount the agent referenced.

HILLMAN said he thought there was an opportunity to do something at this location; however, he thought the choice of this activity with this configuration was a bit excessive.

> **MOTION:** To deny subject to staff recommendation.
>
> **HILLMAN** moved, **LEFFEW** seconded the motion.

MARNELL commented that this proposal seemed like a good use to him and will improve the area. He said you are going to generate traffic with anything you do. He said you just don't know how much traffic wouldn't already be on Hillside Avenue.

> **SUBSTITUTE MOTION:** To approve the application with the protective overlay suggested by staff and the addition of two conditions, which were no signs on Lorraine Avenue and that the berm be a minimum of three feet above the Lorraine Avenue curb.
>
> **MARNELL** moved, **DOWNING** seconded the motion.

DENNIS asked the motion maker and second if they would agree to the addition of limiting trash pick up to between the hours of 7:00 a.m. to 9:00 p.m.

> **REVISED SUBSTITUTE MOTION:** To approve the application with the protective overlay suggested by staff and the addition of three conditions, which were no signs on Lorraine Avenue; that the berm be a minimum of three feet above the Lorraine Avenue curb; and that trash pickup be limited to the hours of 7:00 A.M. to 9:00 P.M.

KLAUSMEYER said he didn't think he could support the substitute motion simply because most Quik Trips are located at two major intersections or major arterials. He said the Quik Trips referenced in the agent's presentation were planned that way. He said when those subdivisions were designed it was anticipated that the corner would be developed for commercial use. He said he doesn't think LC zoning is appropriate for this particular site. He said the traffic may already be there, but it is passing through the area. He said stopping creates congestion problems and is the cause of accidents; therefore, he cannot support the substitute motion.

> **The Substitute Motion carried** (7-5). **FARNEY, HILLMAN, KLAUSMEYER, LEFFEW, MILLER STEVENS** - No

---

Agenda Item No. IV-3

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00026 – City zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3"); generally located north and east of the intersection of North Hoover Road and West Robinson Street. (District VI)

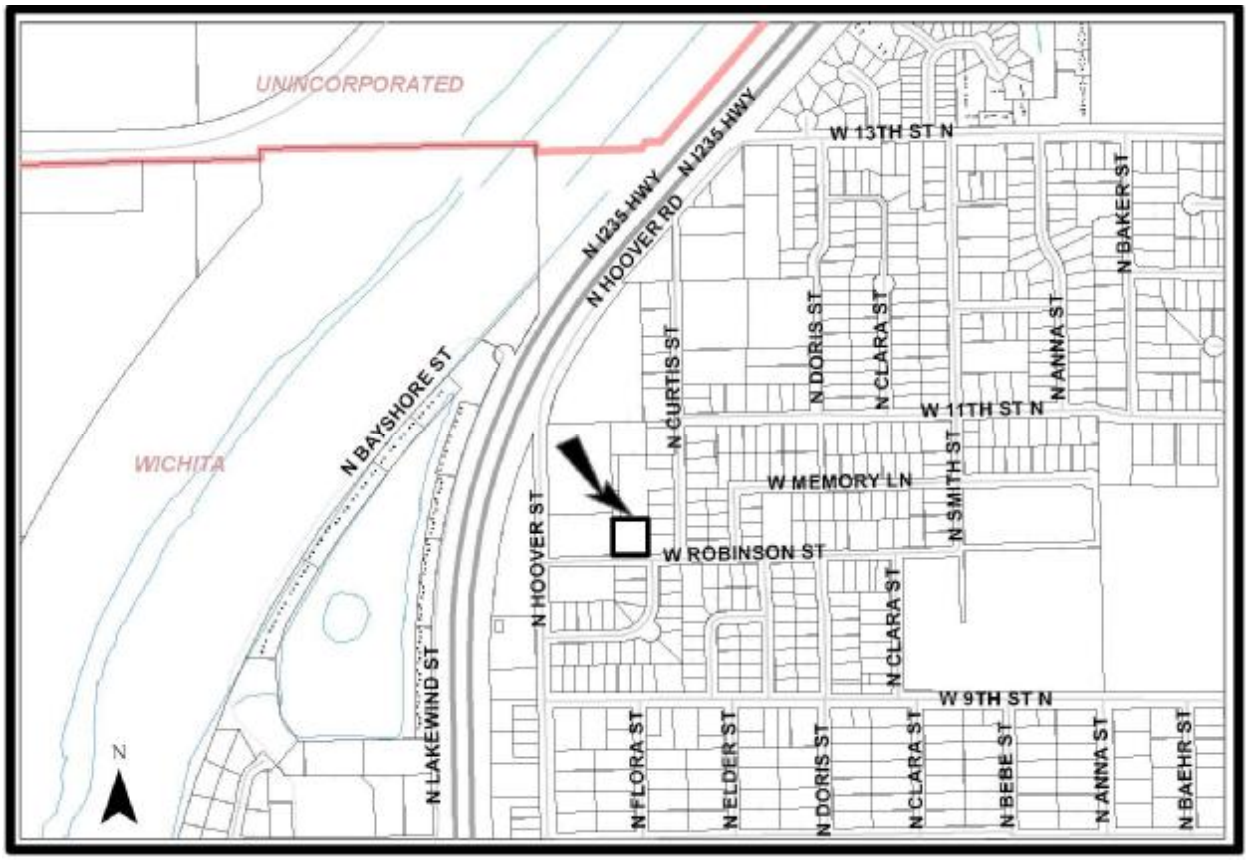
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

DAB VI Recommendation: Denial, (vote 3-2).

MAPC Recommendation: Approve, (vote 11-1); subject to the applicant submitting a "no protest" petition regarding the future paving of West Robinson Street.

MAPD Staff Recommendation: Approve.



Background: The applicant is seeking TF-3 Two-family Residential ("TF-3") zoning for a 0.70-acre platted vacant lot, currently zoned SF-5 Single-family residential ("SF-5"), located northeast of the intersection of North Hoover Street and West Robinson Street. The applicant proposes to develop the site for duplex uses. The *Unified Zoning Code* (UZC) defines a duplex as a lot used for "…two principal dwelling units within a single building." The code permits building heights up to 35 feet in TF-3, which is the same maximum height allowed in the SF-5 district. If the request were to be approved, the existing single lot would allow only one duplex structure with two living units or one single-family structure (permitted by right as TF-3 residential uses); however, it is possible to replat or lot split the existing 0.70-acre lot into smaller lots that could allow more than one structure. Even as currently zoned, the lot could be lot split into more than one single-family lot.

Property immediately surrounding the site to the north, south and east is zoned SF-5 and developed with single-family residences. The SF-5 zoned property to the west is currently undeveloped. Five hundred feet north of the subject site is a church, zoned SF-5. Six hundred feet to the south is property zoned MF-29 Multi-family Residential ("MF-29"), currently developed with duplexes. The nearest TF-3 zoned property to the subject site is located approximately 1,000 feet to the southeast. That property consists of two lots which are zoned TF-3 and both are developed with duplexes.

Analysis: At the DAB VI meeting held August 3, 2010, the DAB voted (3-2) to recommend denial of the request for TF-3 zoning. The major issues identified by DAB members were the unpaved road fronting the subject site, increased residential density caused by the project and if the applicant had considered single-family development instead of duplex development. One resident spoke in opposition of the application stating that there were already too many rentals in the area; there will be traffic problems because of the dirt roads; more trash and junk will be dumped in the area; the development will disrupt a bus stop and the properties that the applicant currently has are currently not maintained.

At the MAPC meeting held August 5, 2010, the MAPC voted (11-1) to recommend approval of the request for TF-3 zoning with the added provision that the applicant submit a "no protest" petition regarding the future paving of West Robinson Street. The commissioners' main concern was in regards to the unpaved condition of Robinson Street. Two residents spoke in opposition of the case stating the same concerns that were discussed at the DAB meeting.

During the subsequent two-week protest period following the MAPC meeting, staff received protests within the 200-foot protest area. These protests equal 59.55% of the total land area, which triggers a ¾ majority vote by the City Council to override neighborhood protest.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to the submission of a no protest petition for paving, and withhold publication of the ordinance until the no protest petition has been submitted (requires a three-fourths majority vote); or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

OCA 150004

ORDINANCE NO. 48-830

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00026

Zone change request from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3"), subject to the submission of a no protest paving petition on properties described as:

The East half of Lot 12, except the South 173 feet of the East 135 feet and except the North 132 feet, R.A. Morris Tracts, Wichita, Sedgwick County, Kansas; generally located north and east of the intersection of North Hoover Road and West Robinson Street.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of September, 2010.

ATTEST:

_____ _____

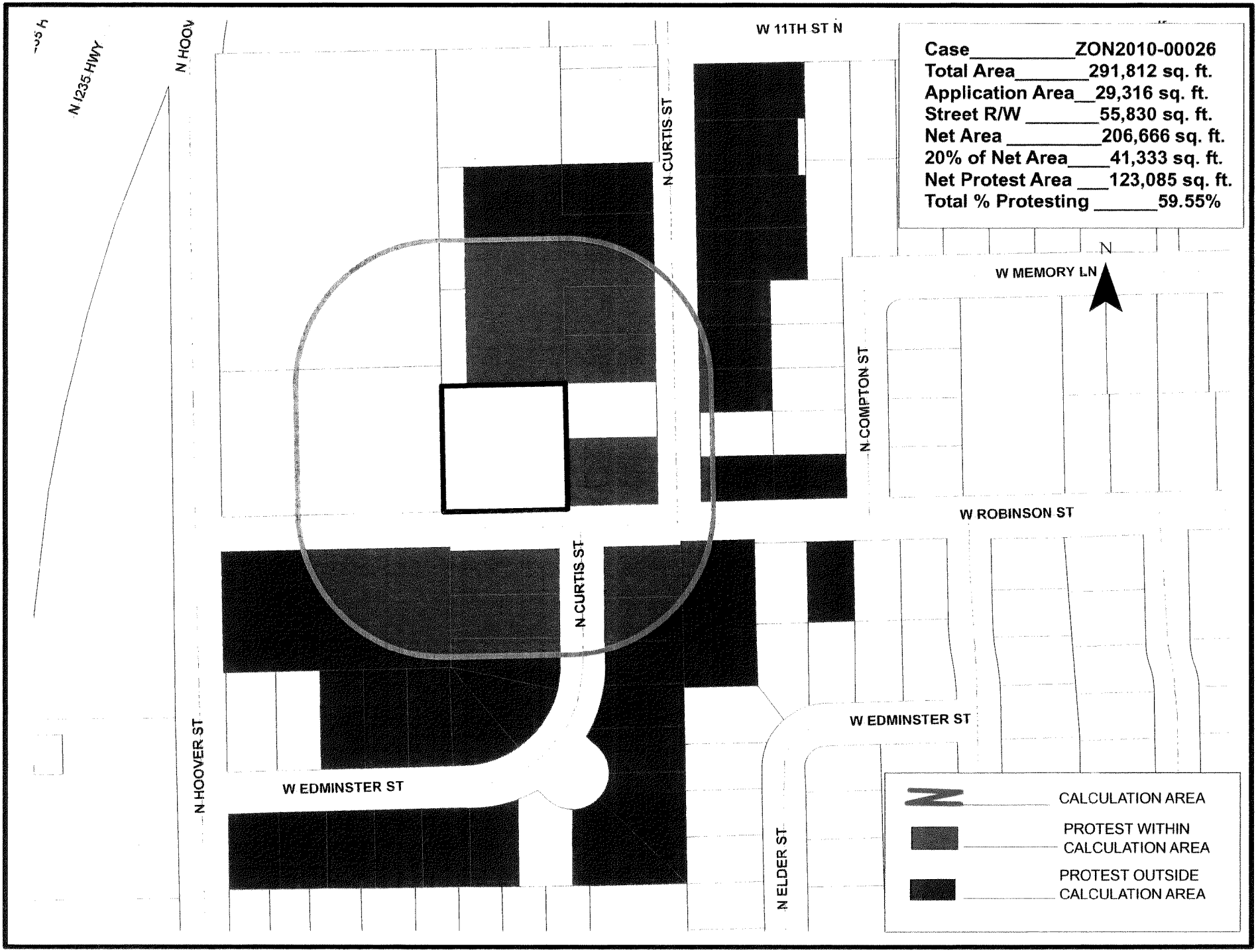
Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law


Case ZON2010-00026
Total Area 291,812 sq. ft.
Application Area 29,316 sq. ft.
Street R/W 55,830 sq. ft.
Net Area 206,666 sq. ft.
20% of Net Area 41,333 sq. ft.
Net Protest Area 123,085 sq. ft.
Total % Protesting 59.55%
N
W 11TH ST N
N 1235 HWY
N HOOV
N CURTIS ST
W MEMORY LN
N COMPTON ST
W ROBINSON ST
N CURTIS ST
W EDMINSTER ST
N HOOVER ST
W EDMINSTER ST
N ELDER ST
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **ZON2010-00026** City zone change from SF-5 to TF-3 generally located north and east of the intersection of N. Hoover and W. Robinson St.

DATE: August 3, 2010

On Monday, August 2, 2010 the District VI Advisory Board (DAB) considered a City zone change from SF-5 to TF-3 generally located north and east of the intersection of N. Hoover and W. Robinson St.

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

The Board asked the following questions/comments:

- Will the applicant pave the street as this request is on a dirt road?
- The increased density will have a detrimental effect on the neighborhood
- Has the applicant considered putting in single family residential instead of duplexes?

Brian Kelly, resident spoke in opposition of the request stating:

- There are too many rentals in the area now.
- We will have traffic problems because of the dirt roads.
- More trash and junk will be dumped.
- No location for the school bus to stop and pick up the high school kids.
- The properties this applicant has now are not taken care of.

Brian Kelly also stated he was the Vice-President of the Orchard Park Neighborhood Association and was speaking for 41 residents who were also opposed to the request and they had already submitted the protest petitions on this case.

****Action:** The District VI Advisory Board members made a motion to recommend to City Council Denial **(3-2)** of the Zoning request due to due to it would be detrimental to the neighborhood

Please review this information when **ZON2010-00026** is considered.

mtd

8-12-10

Dear Wichita City Planning Department

My name is Brian D. Kelly and I live at 5415 Edminster here in Wichita, I recently went before the Metropolitan Area Planning Commission on a zoning change issue number 2010-00026 MR. Derrick K. Slocum was to provide detailed maps ov the area showing the petitions in the area and the ones within a 200 ft. radius of the property, I had maps to show at the meeting as well as all petitions collected by each and every tax paying citizen in which you sent this letter to who strongly rejected this change this is why I went before the commission in the first place but they didn't show any of this evidence at this meeting as well as the other 1500 home owners that I represent from Orchard Park Neighborhood Association. I have to look these people in the eye and try to explain something that is so illogical how everyone around a site can be against a zoning change but a panel of people whom it doesn't affect leave a devastating mark on a neighborhood. There have been studies that show how property values drop when duplexes are integrated in with single family homes, just look at the properties behind the YMCA on West Central and you'll see what I am talking about, there is a place for duplexes but its not in with single family homes sorry, they should leave this sf-5 and build a couple of homes there we would welcome that. Thanks for your time.

Sincerely Brian D. Kelly (316-943-0771) bdkelly@cox.net

8-12-10

RECEIVED
AUG 16 2010
METROPOLITAN PLANNING
SITE ☐ _____

8-5-10 MAPC HAND OUT ITEM 7

TO: Wichita M.A.P.C. 8/4/10

RE: Zoning Change,

CASE NO. ZON 2010-00026

Mr. Tim McCloud
1055 N Curtis St
Wichita, KS 67212

I have lived at Curtis & Robinson for about 5 years. Orchard Park is a nice middle Class neighborhood where most People Work everyday as I do. These are all Single family homes and have been Since at latest the 1985. There is absolutely NO good Reason to allow a "DEVELOPER" to have a Zoning Change to allow Junky Duplexes like the ones on the West Side of Hoover, which he Built in 2009.

This would greatly DE-VALUE my Property and all Property in Orchard Park!

In fact it would be a Blight on all of West Wichita and unsightly from the Highway!

Mr. Brian Kelley is here to Convey not only My Views & Convictions but those ~~so~~ Shared By the large Majority of ORCHARD PARK Residents!

PLEASE NO ZONING Change!!

Sincerely

Timothy McCloud

EXCERPT OF THE AUGUST 5, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2010-26 - Roger Frank (Owner), Jeffery Niedens (Applicant) request a City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential on property described as;

The East half of Lot 12, except the South 173 feet of the East 135 feet and except the North 132 feet, R.A. Morris Tracts, Sedgwick County, Kansas, generally located north and east of the intersection of N. Hoover Road and W. Robinson Street.

BACKGROUND: The applicant is seeking TF-3 Two-family Residential ("TF-3") zoning for a 0.70-acre platted vacant lot, currently zoned SF-5 Single-family residential ("SF-5"), located northeast of the intersection of North Hoover Street and West Robinson Street. The applicant proposes to develop the site for duplex uses. The *Unified Zoning Code* (UZC) defines a duplex as a lot used for "...two principal dwelling units within a single building." The code permits building heights up to 35 feet in TF-3, which is the same maximum height allowed in the SF-5 district. If the request were to be approved, the existing single lot would allow only one duplex structure with two living units or one single-family structure (permitted by right as TF-3 residential uses); however it is possible to replat or lot split the existing 0.70-acre lot into smaller lots that could allow more than one structure. Even as currently zoned the lot could be lot split into more than one single-family lot.

Property immediately surrounding the site to the north, south and east is zoned SF-5, and developed with single-family residences. The SF-5 zoned property to the west is currently undeveloped. Five-hundred feet north of the subject site is a church, zoned SF-5. Six-hundred feet to the south is property zoned MF-29 Multi-family Residential ("MF-29"), currently developed with duplexes. The nearest TF-3 zoned property to the subject site is located approximately 1,000-feet to the southeast. That property consists of two lots which are zoned TF-3 and both are developed with duplexes.

CASE HISTORY: The property is platted as the east half of Lot 12, except the south 173 feet of the east 135 feet and except the north 132 feet, R.A. Morris Tracts, which was recorded October 16, 1928.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residence
SOUTH:	SF-5	Single-family Residence
EAST:	SF-5	Single-family Residence
WEST:	SF-5	Vacant

PUBLIC SERVICES: The subject property has frontage along West Robinson Street, a two-lane, unpaved, local street without traffic counts. Just west of the subject site, Robinson intersects with North Hoover Street, which is a two-lane, unpaved, collector without traffic counts. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Major Institutional." The Major Institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The requested zoning, TF-3, does allow the uses listed above either by-right or by Conditional Use.

Currently, single-family residences exist in this area that is identified as Major Institutional, the most recent being built in 1996. Property directly south of the subject site, across Robinson Street, is classified as "Urban Residential." Even though the subject site itself is classified as Major Institutional, the surrounding neighborhood is predominantly residential and the request for TF-3 zoning at this location is should not have a detrimental effect on the surrounding residential neighborhood.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property immediately surrounding the site to the north, south and east is zoned SF-5, and is developed with single-family residences. The SF-5 zoned property to the west is currently undeveloped. Five- hundred feet north of the subject site is a church, zoned SF-5, and 600-feet to the south is property zoned MF-29 Multi-family Residential ("MF-29"), currently developed with duplexes. The nearest TF-3 zoned property to the subject site is located approximately 1,000-feet to the southeast. That property consists of two lots which are zoned TF-3 and both are developed with duplexes.

2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed with a single-family residential use under the current zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would double the density at which the site could be developed. The effect on nearby residents could be increased traffic. However, single-family residences typically generate more traffic per unit than two-family residences. The minimum standards of the UZC should mitigate any other potential negative effects on the surrounding residential neighbors.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Major Institutional." The Major Institutional category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. The requested zoning, TF-3, does allow the uses listed above either by-right or by conditional use.

5. Impact of the proposed development on community facilities: Traffic on the existing residential street could increase as a result of the proposed development. This site has access to North Hoover Street, a classified collector.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He reported that DAB VI recommended denial of the application 3-2.

JEFF NIEDENS, APPLICANT commented that this was a vacant lot and his application was pretty straight forward. He said he would like to put one, possibly two duplexes (if he can obtain a lot split) at the location. He said the reason a single-family residence will not work at this location is its close proximity to I-235, which is less than one block away. He said this development should bring approximately $300,000 into the City tax base and added that he is not asking for any revenue or tax breaks.

BRIAN KELLY, 5415 W. EDMINSTER said he was in opposition to the planned zoning change from SF-5 Single-Family Residential to TF-3 Two-Family Residential. He said as Vice President of the Orchard Park Neighborhood Association he represented approximately 1,500 members. He said currently within a six square block area of the proposed site there are 11 homes for sale and three homes for rent, one of which is owned by the applicant's wife. He said he has obtained protest petitions from nearly every neighbor in the surrounding areas and everyone who has read the proposal is strongly opposed to the zoning change for the following reasons: there are too many rentals in area already that are unoccupied; this will cause more traffic problems in the area because it is located on a dirt road; this will cause surrounding property values to drop; this will impact the drainage and duplex residents may start using the area for dumping; renters do not take care of property; this impacts where the school bus stops on Robinson in front of the proposed site; there is no street lighting in the area and this proposal will increase vandalism. He said the same two men who want this proposal built duplexes in the 600 and 700 blocks on North Hoover. He referred to hand outs of pictures of properties at 751 North Hoover, 627 North Hoover, 619 North Hoover and 901 North Hoover. He said it should be clear why the neighbors don't want duplexes built on this property. He concluded by saying that he heard the applicant was telling petitioners that if the duplex is not allowed, low-income housing will go into the site to try to get them to change their petition.

BOB ALDRICH, 804 N. MAIN said is lives on Compton and that he has been involved with the neighborhood association in the area for at least 15 years. He said he spoke in opposition to this proposal at the DAB VI meeting. He commented on the dirt road this will be located on and mentioned that the big issue is there are more dirt roads in this part of the City than anywhere else. He said they want to revitalize and improve the neighborhood, and don't think this proposal is good. He said duplexes and lot splits will increase the density in the area which causes more problems. He mentioned vehicle traffic and said there were two school zones in the area -- Bryant and Hadley. He added that there is a very nice park and that this proposal will be extremely detrimental to the area. He mentioned that the same gentlemen who built the residences on Hoover wants to build these duplexes. He said when he was a member of the MAPC he brought up the shoddy construction of not paving the driveways on the previous developments, which he said the developer corrected. He concluded by recommending that the Commission take the DAB's advice and reject this proposal.

HILLMAN asked if there was a plan to pave the dirt roads in the area.

ALDRICH said there were no plans for paving and that the applicant would not foot the cost for that. He said this is an established neighborhood and that the City was not going to order paving in that area.

MILLER said as far as he knows, the City Council can either order paving in or as a petition project when property owners get a petition together.

ALDRICH said there was no petition to pave this street.

SHERMAN asked if there was anything the Planning Commission could do to support paving this area.

ALDRICH said he would love to see the area paved.

MILLER STEVENS asked for clarification on ownership of the drainage pond.

ALDRICH said the only drainage in the area is open drains because of the dirt roads. He said this is a retention pond north of the site and has been there since the area was developed. He said it has become a "dump" and there has been illegal dumping in the area. He said neighbors have notified the appropriate agencies. He said Robinson does get flooded out because it is pretty sandy in the area.

It was noted that Planning Staff had not recommended paving of the street in the Staff Report.

LEFFEW asked if other property owners have initiated petitions to get paving in the area.

ALDRICH said no, because of the rentals in the area. He said as landlords, property owners are not going to request paving and they have never been able to get the 51% required to pave the roadways. He said there has been discussion with various City Council representatives over the years; however, there is some controversy between the property owners that paid specials to get the roads paved. He said several options have been discussed including getting materials donated and taking that amount off property taxes and having the City install the roadways.

NEIDENS said he will voluntarily sign a no protest petition. He said he had no problem with the paving and added that he had been a big part of the paving of the 700 block of North Hoover. He also mentioned that he had offered to put up fencing around the drainage pond, which was not required by the City. He said he was not trying to rape and pillage the neighborhood, and added that this development should bring approximately 300,000 influx into the tax base.

DENNIS referenced the pictures provided by Mr. Kelly. He commented that past performance is often an indication of future performance.

NIEDENS said one situation he believes is a cultural issue, and he has spoken to the tenants about the condition of the front of the residence several times. He said when people pay rent on time, it is tough to get them out. He said the pile of dirt at the one location was because it was a brand new duplex that they just finished in March, 2010, but missed the spring planting. He said prior to construction, there was a trailer located on the property.

DENNIS commented that staff may have to ask the Office of Central Inspection take a look at the photos.

> **MOTION:** To approve subject to staff recommendation.
>
> **MARNELL** requested that the motion maker amend the motion to include that the owner agrees to sign a no protest petition.
>
> **AMENDED MOTION:** To approve subject to staff recommendation and that the owner agree to sign a no protest petition.
>
> **KLAUSMEYER** moved, **LEFFEW** seconded the motion, and it carried (10-1).
> **HILLMAN** – No.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

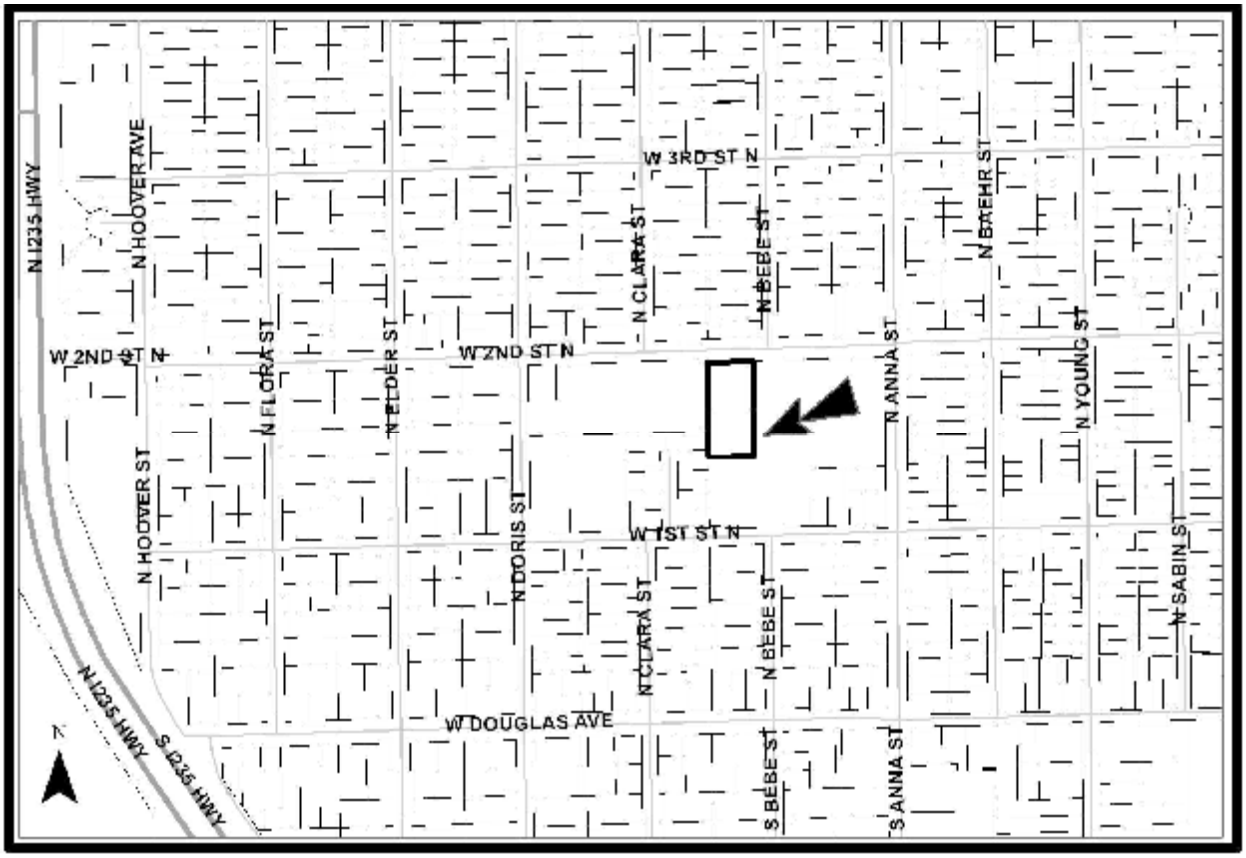
SUBJECT: CON2010-00017 – City Conditional Use to permit the construction of a Communication Tower for Unified School District ("USD") 259 at Dodge Elementary School; generally located at the southwest corner of the intersection of West 2nd Avenue and Anna Street. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: Approve with monopole tower, (vote 11-0).

MAPD Staff Recommendation: Approve.



Background: The applicant, USD 259, is seeking a Conditional Use to permit the construction of an 80-foot high tubular self-supporting tower (see attached illustration). The 20 foot by 20 foot tower site is located in the northwest portion of the application area and is also located on the far west end of the larger, new Dodge Elementary School site. The proposed site is zoned B Multi-family Residential ("B"). Wireless Communication Facilities over 65 feet in height in the B zoning district may be permitted with a Conditional Use. The site is not identified on the official Zoning Map as within the "Cell Tower Administrative Permit" area, but it may be considered for a Conditional Use. The proposed location meets the compatibility height and other standards of the Unified Zoning Code.

The applicant's letter (see attached) states that the proposed facility is needed to provide voice, data and security alarm traffic between the school and the district's administrative facilities. Since 2003, the school district's microwave system has included Dodge Elementary School through the use of the existing 60-foot self-supporting galvanized microwave tower. The existing tower is located on the school grounds and is enclosed within a chain link fence. With the remodeling and reconstruction of Dodge Elementary School, the existing tower site is located within the new school's proposed footprint. It is, therefore, necessary to move the existing tower to another location on the school's premises and to extend the height of the tower by 20 feet. The new location on the school's premise will require an additional 20 feet of height in order for the microwave signals to avoid obstruction by trees and provide the signal with a clean line-of-sight.

The tower will house two, 2.5-foot parabolic high performance 18 GHz microwave antennas. One antenna will point toward Hadley Middle School on an azimuth of 6.2 degrees, and the other antenna will point toward Mayberry Middle School on an azimuth of 111.06 degrees. All microwave links in the USD 259 system are licensed and approved by the Federal Communications Commission (FCC) and are operated within FCC standards.

The attached site plan shows the general tower area and the proposed location of the new Dodge Literacy Magnet Elementary School. The agent's letter states that the site will have a chain link security fence around the tower site. The applicant will be required to conform to Federal Aviation Administration (FAA) standards and verify that the tower will not pose a hazard to air navigation or interfere with other radio/communication frequencies. The applicant will also be required to provided an analysis of airspace in the area prior to building permits being issued. The applicant's statement indicates that the tower will not have strobe lights. Tower lighting must meet the FAA requirements for aircraft warning.

The character of the surrounding area is institutional and residential uses. The property located to the east is zoned B and SF-5 Single-family Residential ("SF-5") and is a large site that is currently developed with the existing Dodge Elementary School; however the redevelopment of the site will turn this area into a parking lot for the new school. A single-family residential development, zoned SF-5, is located east of Anna Street, approximately ½ block to the east. The property to the south of the subject site is zoned SF-5 and is developed as single-family residences. A park area with playground facilities, zoned B and SF-5, is located to the west of the subject site. The property to the west of park, zoned SF-5, is developed with single-family residences. North of the subject site, property is zoned SF-5, B and TF-3 Two-family Residential ("TF-3"), with development consisting of single-family residences, duplexes and apartments.

Analysis: At the MAPC meeting held July 22, 2010, the MAPC voted (11-0) to recommend approval of the request for a Conditional Use Permit for a Communication Tower for USD 259 at Dodge Elementary School, with an amendment to the conditions requiring the tower be monopole in design. The MAPC members discussed why staff would approve a lattice designed tower when the Wireless Communication Plan indicates that a monopole design is preferred (Section VI.B (3) of the Wireless Communication Master Plan). Staff stated that since a lattice tower already exists at the site, the school district is simply relocating it to a different location on-site, and currently all towers installed at the various school sites are lattice designs. Staff was trying to stay consistent with what has been previously installed. In their motion, the MAPC amended Condition C to approve the Conditional Use, but require the applicant to

build a monopole tower instead of the requested lattice tower. The following are the conditions approved by the MAPC, including the amendment to Condition C:

A. All requirements of Section III.D.6.g of the Unified Zoning Code shall be met.

B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.

C. The support structure shall be 80-feet in height and shall be monopole in design and constructed to accommodate the equipment needed for the USD 259 microwave system.

D. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.e of the Unified Zoning Code.

E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.

F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.

G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

There was not anyone from the pubic to speak for or against the request, and staff did not receive any calls, correspondence or protests.

The decision of the MAPC has been appealed by the applicant due to the recommended design change from a lattice tower to a monopole tower, and due to the most recent decision by the MAPC (August 5th meeting) to approve two lattice designed towers for the City of Wichita's Information Technology Department. The applicant states "The District incorporates a lattice tower design. They use this design in good conscience for both technical and monetary reasons. Technically, because a lattice tower is the smallest structure that maintains sufficient rigidity for microwave antennae technology. Monetarily, because the lattice tower design is considerably less costly to construct than the monopole design." The applicant requests that the Council hear this request and desires for the Council to reverse the MAPC's decision to require a monopole over a lattice tower.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Concur with the findings of the MAPC, and approve the request for a Conditional Use subject to the recommended conditions of approval, including amended Condition C that requires a monopole (simple majority vote required), and authorize the Mayor to sign the resolution; or

2. Approve the application as requested by the applicant, subject to the recommended conditions (two-thirds majority vote required); or

3. Return the application to the MAPC for reconsideration

Attachments:

- Resolution
- MAPC Minutes
- Appeal Letter

RESOLUTION No. 10-239

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT THE CONSTRUCTION OF A LATTICE WIRELESS COMMUNICATION FACILITY, ON PROPERTY ZONED B MULTI-FAMILY RESIDENTIAL ("B"), GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST 2ND STREET AND ANNA STREET, WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

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

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit a lattice Wireless Communication Facility, on property zoned B Multi-family Residential ("B"), subject to the conditions listed below:

Case No. CON2010-00017

A Conditional Use to permit a lattice Wireless Communication Facility, on approximately 400 square feet located at the southwest corner of West 2nd Street and North Anna Street zoned B Multi-family Residential ("B").

A tract of land described as beginning 499 feet West of the Northeast corner of the Southwest quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence West 161 feet South; thence South 377 feet; thence East 161 feet; thence North 377 feet to the point of beginning except the North 40 feet thereof for street, Wichita, Sedgwick County, Kansas, generally located at the southwest corner of the intersection of West 2nd Avenue and Anna Street.

SUBJECT TO THE FOLLOWING CONDITIONS:

A. All requirements of Section III.D.6.g of the Unified Zoning Code shall be met.

B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.

C. The support structure shall be 80-feet in height and shall be monopole in design and constructed to accommodate the equipment needed for the USD 259 microwave system.

D. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.e of the Unified Zoning Code.

E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.

F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.

G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date September 14, 2009.

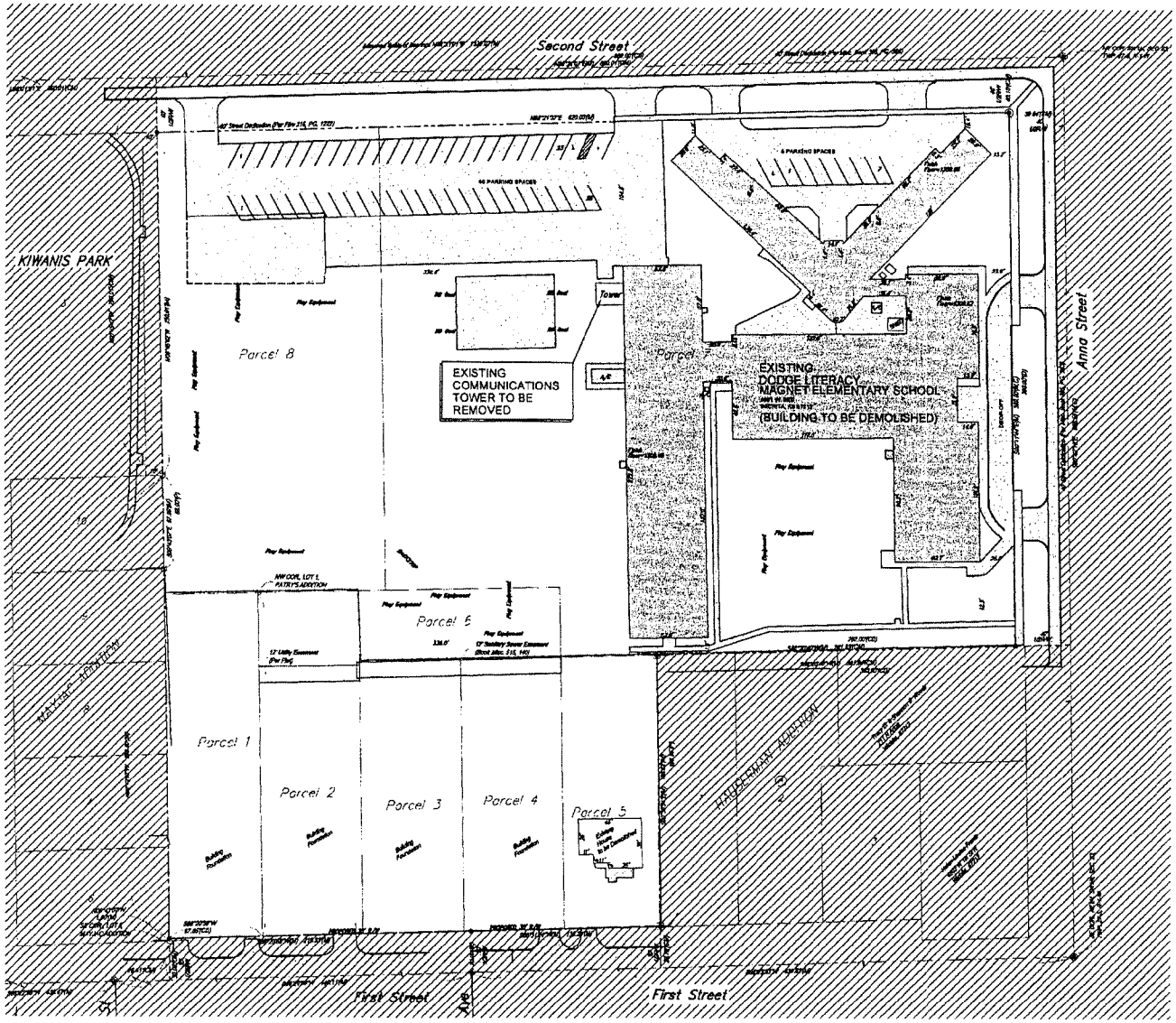
_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney



① EXISTING SITE PLAN

LEGAL DESCRIPTIONS

Parcel 1
A tract beginning at a point 680 feet west and 643.5 feet south of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence north 266.5 feet; thence east 70 feet; thence south 266.5 feet; thence west 70 feet to the point of beginning, EXCEPT that part platted as Patry's Addition to Wichita, Kansas, Sedgwick County, Kansas, AND EXCEPT the south 14.7 feet thereof dedicated for street purposes.

Parcel 2
Lot 1, Patry's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel 3
Beginning 430 feet south and 445.33 feet west of the Northeast corner of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 213.5 feet to the North line of Academy Avenue, now 1st Street; thence west 73.33 feet; thence north, parallel to the West line of said Northeast Quarter of Southwest Quarter, 213.5 feet; thence east 73.33 feet to the point of beginning, EXCEPT the south 14.7 feet thereof dedicated for street purposes.

Parcel 4
A tract of land described as beginning at a point 430 feet South and 372 feet West of the Northeast Corner of the Northeast Quarter of the Northwest Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence south 213.5 feet to the North line of Academy Avenue, now First Street; thence West 73.33 feet; thence North parallel to the West line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter a distance of 213.5 feet; thence East 73.33 feet to the point of beginning, except the South 14.8 feet for First Street.

Parcel 5
A tract in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 430 feet south and 302 feet west of the Northeast corner of said Southwest Quarter; thence south parallel with the East line of said Southwest Quarter, a distance of 213.5 feet to the North line of Academy Avenue, now First Street; thence west along the North line of said street, a distance of 70 feet; thence north parallel with the East line of said Southwest Quarter, a distance of 213.5 feet; thence east 70 feet to the place of beginning.

Parcel 6
A tract of land in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning 375 feet south and 372 feet west of the Northeast corner of said Southwest Quarter; thence south, parallel with the East line of said Northeast Quarter of the Southwest Quarter, 55 feet; thence west, parallel with the North line of said Northeast Quarter of the Southwest Quarter, 146.66 feet; thence north, parallel with the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter, 53 feet; thence east 19.66 feet; thence north 2 feet; thence east 127 feet to the place of beginning.

Parcel 7
A tract of land in the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 330 feet west of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 375 feet; thence west 160 feet; thence north 375 feet; thence east 160 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 20 rods; thence south 12 rods; thence east 20 rods; thence north 12 rods to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 12 rods south of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 20 rods; thence south 8 rods; thence east 20 rods; thence north to the place of beginning; TOGETHER WITH a tract of land described as beginning 330 feet south of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 100 feet; thence west 165 feet; thence north 100 feet; thence east 165 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 330 feet south and 170 feet of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 132 feet; thence south 100 feet; thence east 132 feet; thence north 100 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 330 feet south and 302 feet west of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, thence west 28 feet; thence south 100 feet; thence east 28 feet; thence north 100 feet to the place of beginning.

Parcel 8
A tract of land described as beginning 499 feet west of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south, parallel with the East line of said Southwest Quarter, 377 feet; thence west, parallel to the North line of said Southwest Quarter, 160.6 feet, more or less, to the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter; thence north on the West line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, 377 feet to the North line of said Southwest Quarter; thence east 160.87, more or less, to the place of beginning.

PARKING
AVAILABLE:
TOTAL NUMBER OF SPACES AVAILABLE FOR THE SCHOOL
55 STANDARD SPACES AND 3 HANDICAP = 58 TOTAL SPACES

TOTAL BUILDING AREAS
TOTAL SF OF EXISTING BUILDING (GROSS) = 47,414 SF

EXISTING HEIGHT AND STORIES
ALLOWABLE HEIGHT = 55'-0" ACTUAL HEIGHT = 31'-0" ±

SCOPE OF WORK FOR EXISTING BUILDING
TO BE ENTIRELY DEMOLISHED WHEN NEW BUILDING IS COMPLETE.
NONE OF THE EXISTING BUILDING WILL BE REMODELED OR REUSED

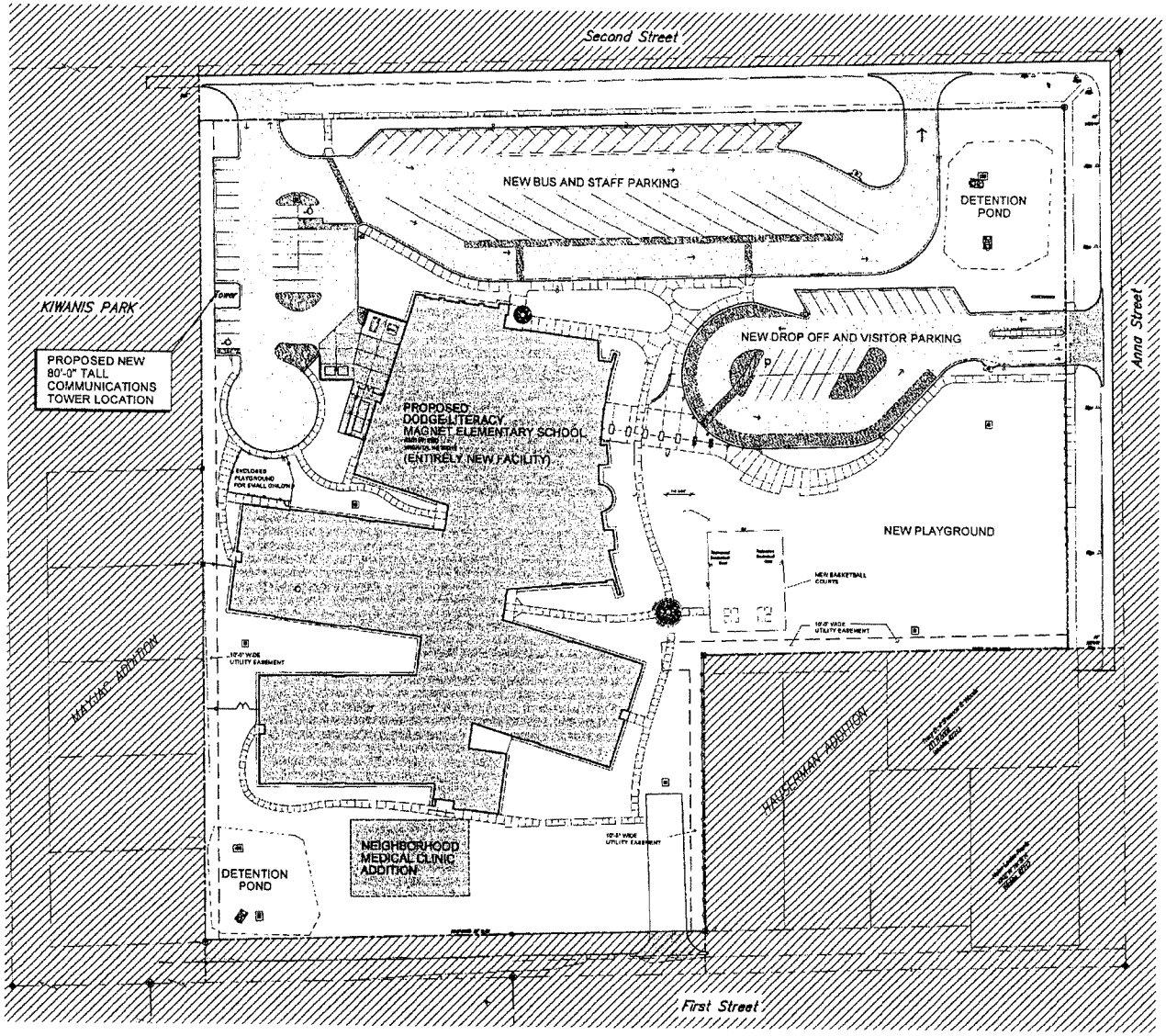
SPANGENBERG PHILLIPS TICE ARCHITECTURE
121 N Mead Ste 201 Wichita KS 67202
T 316.267.4002 F 316.267.1509
www.spfarchitecture.com

DODGE ELEMENTARY SCHOOL
USD 259 WICHITA SCHOOL DISTRICT
4801 WEST 2ND STREET - WICHITA, KS 67212

COND. PERMIT
30 MAR 10

EXISTING
SITE PLAN
BID # 09-25-011

SP1



① **PROPOSED SITE PLAN**

LEGAL DESCRIPTIONS

Parcel 1
A tract beginning at a point 650 feet west and 643.5 feet south of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence north 266.5 feet; thence east 70 feet; thence south 266.5 feet; thence west 70 feet to the point of beginning, EXCEPT that part platted as Patry's Addition to Wichita, Kansas, Sedgwick County, Kansas, AND EXCEPT the south 14.7 feet thereof dedicated for street purposes.

Parcel 2
Lot 1, Patry's Addition to Wichita, Kansas, Sedgwick County, Kansas.

Parcel 3
Beginning 430 feet south and 445.33 feet west of the Northeast corner of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 213.5 feet to the North line of Academy Avenue, now 1st Street; thence west 73.33 feet; thence north, parallel to the West line of said Northeast Quarter of Northeast Quarter of Southwest Quarter, 213.5 feet; thence east 73.33 feet to the point of beginning, EXCEPT the south 14.7 feet thereof dedicated for street purposes.

Parcel 4
A tract of land described as beginning at a point 430 feet South and 372 feet West of the Northeast Corner of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence south 213.5 feet to the North line of Academy Avenue, now First Street; thence West 73.33 feet; thence North parallel to the West line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter a distance of 213.5 feet; thence East 73.33 feet to the point of beginning, except the South 14.0 feet for First Street.

Parcel 5
A tract in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 430 feet south and 302 feet west of the Northeast corner of said Southwest Quarter; thence south parallel with the East line of said Southwest Quarter, a distance of 213.5 feet to the North line of Academy Avenue, now First Street; thence west along the North line of said street, a distance of 70 feet; thence north parallel with the East line of said Southwest Quarter, a distance of 213.5 feet; thence east 70 feet to the place of beginning.

Parcel 6
A tract of land in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning 375 feet south and 372 feet west of the Northeast corner of said Southwest Quarter; thence south, parallel with the East line of said Northeast Quarter of the Southwest Quarter, 55 feet; thence west, parallel with the North line of said Northeast Quarter of the Southwest Quarter, 145.66 feet; thence north, parallel with the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter, 53 feet; thence east 13.66 feet; thence north 2 feet; thence east 127 feet to the place of beginning.

Parcel 7
A tract of land in the Southeast Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point 330 feet west of the Northeast corner of the Southeast Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 375 feet; thence west 169 feet; thence north 375 feet; thence east 169 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 20 rods; thence south 12 rods; thence east 20 rods; thence north 12 rods to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 12 rods south of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 20 rods; thence south 8 rods; thence east 20 rods; thence north to the place of beginning; TOGETHER WITH a tract of land described as beginning 330 feet south of the Northeast corner of the Southeast Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south 100 feet; thence west 165 feet; thence north 100 feet; thence east 165 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 330 feet south and 170 feet of the Northeast corner of the Southeast Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 132 feet; thence south 100 feet; thence east 132 feet; thence north 100 feet to the place of beginning; TOGETHER WITH a tract of land described as beginning at a point 330 feet south and 302 feet west of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence west 28 feet; thence south 100 feet; thence east 28 feet; thence north 100 feet to the place of beginning.

Parcel 8
A tract of land described as beginning 439 feet west of the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence south, parallel with the East line of said Southwest Quarter, 377 feet; thence west, parallel to the North line of said Southwest Quarter, 160.6 feet, more or less, to the West line of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter; thence north on the West line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, 377 feet to the North line of said Southwest Quarter; thence east 160.87, more or less, to the place of beginning.

PARKING

AVAILABLE		
ALONG SECOND STREET	= 23 STANDARD SPACES	= 23 TOTAL
WEST STAFF PARKING	= 24 STANDARD SPACES + 2 HC SPACES	= 26 TOTAL
EAST VISITORS PARKING	= 23 STANDARD SPACES + 1 HC SPACE	= 24 TOTAL
GRAND TOTAL	= 70 STANDARD SPACES + 3 HC SPACES	= 73 TOTAL

TOTAL BUILDING AREAS

TOTAL SF (NET)	= 61,829 SF
TOTAL SF (GROSS)	= 84,194 SF

HEIGHT AND STORIES

ACTUAL HEIGHT	= 28'-0" AT GYM
STORIES	= 1

SPANGENBERG PHILLIPS TICE ARCHITECTURE
121 N Mead Ste 201 Wichita KS 67202
T 316.267.4002 F 316.267.1509
www.spjarchitecture.com

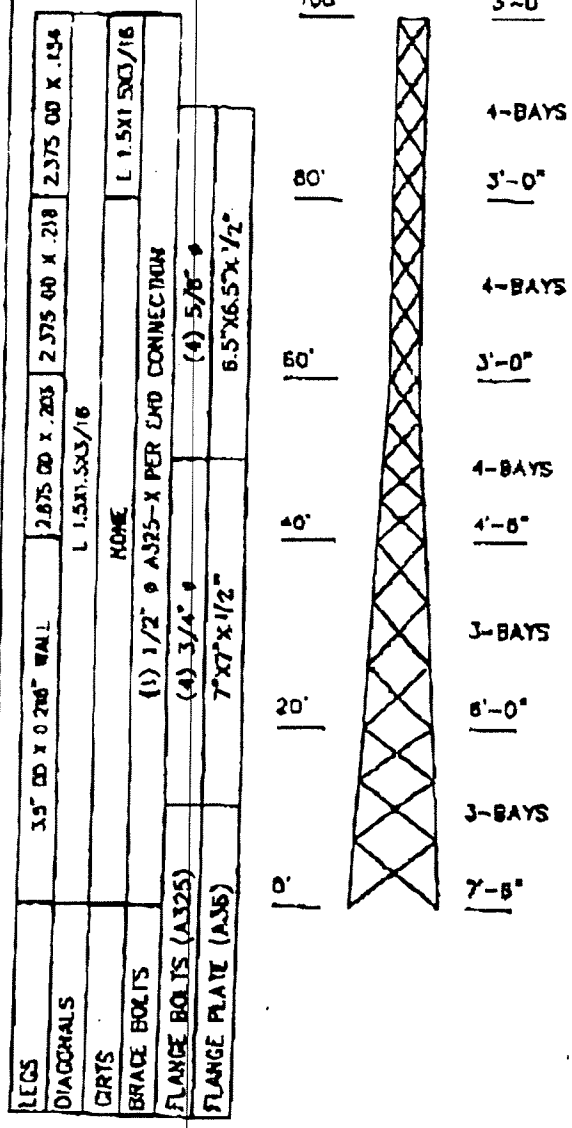
DODGE ELEMENTARY SCHOOL
USD 259 WICHITA SCHOOL DISTRICT
4801 WEST 2ND STREET - WICHITA, KS 67212

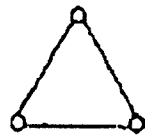
COND. PERMIT
30 MAR 12

PROPOSED
SITE PLAN
BID # 09-25-011

SP2

THE TOWER IS DESIGNED AT 90 MPH WIND + 0.5" ICE (WITH REDUCTION) PER EIA-222-F-1996





PLAN

P. 1 OF 2

SWAGER COMMUNICATIONS, INC.
P.O. Box 750
3360 E 550 N
Fortland, IN 46737

100' TUBULAR SELF-SUPPORTING TOWER
UNITED SCHOOL DISTRICT NO. 259
WICHITA, KS
CSL JOB NO. 10097A-110-A

CHI S. LEE, P.E.
8801 LORRAINE AVE.
SIOUX CITY, IA 51106
FAX AND PHONE No. (712) 276-2142

REV.	DATE	DESIGNED BY
0	4-17-97	CSL

ELEV. ANTENNA

TOP (6) 30" ANTENNAS + (3) 6' SIDE ARMS

--(1) 7/8" LINE TO EACH ANTENNA
--FEEDLINES ON TWO TOWER FACES W/ W.G. SUPPORTS
--STEP BOLTS W/ SAFETY DEVICE

DESIGN NOTES

1) ALL LEGS ARE 50 KSI
2) ALL BRACES ARE 36 KSI
3) ESTIMATED TOWER STEEL WT. = 3.42 KIPS (FLANGE, GUSSET & BASE PLATES INCLUDED)
4) USE (4) 1" ø A307 X 6'-0" LONG ANCHOR BOLTS W/ 9.5"X9.5"X1" BASE PLATE PER LEG

BASE REACTIONS:-

TOTAL SHEAR = 6.5 KIPS
AXIAL DOWN LOAD = 5.6 KIPS
MAX. UPLIFT/ LEG = 56 KIPS
MAX. COMP. / LEG = 60 KIPS
O.T. MOMENT = 376 FT-KIPS

* Preliminary

SWAGER\97J10A.DWG

Mr. Slocum,
On behalf of the Unified School District 259 I formally file an appeal to the decision made by the Metropolitan Area Planning Commission Thursday July 22, 2010. The appeal is for one specific condition of the eight conditions incorporated into the decision. We appeal condition "C" which states,

"The support structure shall be 80-feet in height **and shall be monopole in design** and constructed to accommodate the equipment needed for the USD 259 microwave system."

Specifically the monopole tower design requirement is the reason for the appeal. The District incorporates a lattice tower design. They use this design in good conscience for both technical and monetary reasons. Technically because a lattice tower is the smallest structure that maintains sufficient rigidity for microwave antennae technology. Monetarily because the lattice tower design is considerably less costly to construct than the mono pole design.

It should be noted that I was advised a tower less than 65'-0" in height could be erected in the proposed location without a conditional use permit. The District has performed site verification to confirm that the existing 60'-0" tall lattice tower will work if it is moved to the new location. However to my dismay I was advised that a conditional permit is still required. It has put unnecessary hardship on the District to perform tasks only to find that they cannot move the existing tower on their own property - especially since there were no dissenting comments from the surrounding community. These tasks were performed with the desire to comply with zoning requirements.

Let me know if any further information is required to submit this formal appeal. Forward the information regarding time and information required for the appeal to the City Council.

Thanks,

Mike Decker, AIA | Project Manager

SPANGENBERG PHILLIPS TICE Architecture
121 N Mead Ste 201
Wichita, KS 67202
T: 316. 267.4002 | F: 316. 267.1509
sptarchitecture.com

EXCERPT OF THE JULY 22, 2010 MAPC HEARING

Case No.: CON2010-17 - Unified School District 259 (Owner) Joe Hoover, USD 259 (Applicant) Mike Decker, Spangenberg Phillips Architecture (Agent) Request City Conditional Use to permit the construction of a Communication Tower for USD 259 at Dodge Elementary School on property described as;

A Tract of land beginning at the Northeast corner of the Southwest Quarter of Section 23, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence West 499 feet; thence South 375 feet; thence East 127 feet; thence South 55 feet; thence East 372 feet; thence North to the point of beginning. Generally located at the southwest corner of the intersection of W. 2nd Avenue and Anna Street (4801 W. 2nd St.).

BACKGROUND: The applicant, USD 259, is seeking a Conditional Use to permit the construction of an 80-foot high tubular self-supporting tower (see attached illustration). The 20-foot by 20-foot tower site, in the northwest portion of the application area, is located on the far west end of the new Dodge Elementary School site. The proposed site is zoned B Multi-family Residential ("B"). Wireless Communication Facilities over 65 feet in height in the B zoning district may be permitted with a Conditional Use. The site is not identified on the official Zoning Map as within the "Cell Tower Administrative Permit" area, but it may be considered for a Conditional Use. It appears to meet the compatibility height and other standards of the Zoning Code.

The applicant's letter (see attached) states that the proposed facility is needed to provide voice, data and security alarm traffic between schools and administrative facilities. The letter also states on how since 2003, the school districts microwave system has included Dodge Elementary School through the use of a 60-foot self-supporting galvanized microwave tower. The tower is located on the school grounds and is enclosed with a chain link fence. With the remodeling and reconstruction of Dodge Elementary School, the existing tower site will be in the footprint of the new school. It is necessary to move the existing tower to another location on the school's premises and to extend the height of the tower by 20-feet. The new location on the school's premise will require an additional 20-feet of height in order for the microwave signals to avoid obstruction by trees and provide the paths with adequate signal clearance.

The tower will house two (2), 2.5-foot parabolic high performance 18 GHz microwave antennas. One antenna will point toward Hadley Middle School on an azimuth of 6.2 degrees and the other antenna will point toward Mayberry Middle School on an azimuth of 111.06 degrees. All microwave links in the USD 259 system are licensed and approved by the Federal Communications Commission (FCC) and are operated within the laws of the FCC.

The attached site plan shows the general tower area, and the proposed location of the new Dodge Literacy Magnet Elementary School. The site plan does not indicate light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in tower area. The agent's letter states that the site will have a chain link security fence around the tower site. The applicant will be required conform to Federal Aviation Administration (FAA) standards, and verify that the tower will not pose a hazard to air navigation or interfere with other radio/communication frequencies. The applicant will be required to provided an analysis of airspace in the area prior to building permits being issued. The applicant's statement indicates that the tower will not have strobe lights. Tower lighting must meet the FAA requirements for aircraft warning.

The character of the surrounding area is institutional and residential uses. The property to the east, zoned B and SF-5 Single-family Residential ("SF-5"), is a large site that is currently developed with the existing Dodge Elementary School; however the redevelopment of the site will turn this area into a parking lot for

the new school. A single-family residential development zoned SF-5 is located east of Anna Street, approximately ½ block to the east. The property to the south of the subject site is zoned SF-5 and is developed as single-family residences. A park area with playground facilities, zoned B and SF-5, is located to the west of the subject site. The property to the west of park, zoned SF-5 is developed with single-family residences. North of the subject site, property is zoned SF-5, B and TF-3 Two-family Residential ("TF-3"), with development consisting of single-family residences, duplexes and apartments.

CASE HISTORY: The subject property was just recently platted (recorded 3-18-10) as part of Dodge Elementary Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3 & SF-5	Duplexes and Single-family Residences
SOUTH:	SF-5	Single-family Residences
EAST:	SF-5	Charitable Institution
WEST:	B	Playground

PUBLIC SERVICES: Municipally supplied public services are available to the site. The site has access to 2nd Street, a paved urban collector with no traffic counts at this location.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned TF-3 or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
C. The support structure shall be 80-feet in height and shall be designed and constructed to accommodate the equipment needed for the USD 259 microwave system.
D. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.e. of the Unified Zoning Code.

E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.

F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.

G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is institutional and residential uses. The property to the east, zoned B Multi-family Residential ("B") and SF-5 single-family Residential ("SF-5"), is a large site that is currently developed with the existing Dodge Elementary School; however the redevelopment of the site will turn this area into a parking lot for the new school. A single-family residential development zoned SF-5 is located east of Anna Street, approximately ½ block to the east. The property to the south of the subject site is zoned SF-5 and is developed as single-family residences. A park area with playground facilities, zoned B and SF-5, is located to the west of the subject site. The property to the west of park, zoned SF-5 is developed with single-family residences. North of the subject site, property is zoned SF-5, B and TF-3 Two-family Residential ("TF-3"), with development consisting of single-family residences, duplexes and apartments.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" Multi-family, and has been developed with an elementary school.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Negative impact on the surrounding property should be minimal since the tower has been on this site since 1998. The intent of this Conditional Use request is to address the new location on the site for the tower and the increase in height by 20-feet. The proposed tower is to provide continued communication coverage for Dodge Elementary and other schools within USD 259.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping,

walls, and/or fencing and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

JOHNSON recused himself from this item.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MARNELL said he was surprised that the City recommended approval of a lattice tower. He said the City requires communications carriers to install monopoles to meet the standards of the City Wireless Communication Plan. He asked why staff was recommending approval of a lattice tower.

SLOCUM said the lattice tower is currently installed at the site and that they are requesting a 20-foot increase in height. He said all towers installed at school sites are lattice, so staff was just staying consistent with what is already installed. He also mentioned that he could find no "hard fast rule" in the Wireless Communication Plan that dictates that towers be monopole.

MILLER reiterated that all of the towers installed on school district property were the lattice style. He said a tower already exists at the site and they are simply relocating it and installing a similar taller tower. He said it didn't make any sense to staff to insist on a monopole when a lattice tower is already located there.

MARNELL commented that economic consideration is not a reason to allow a lattice tower instead of a monopole. He said this is the second government entity that staff has recommended a lattice tower when private enterprise wouldn't stand a chance of installing a lattice tower. He said when other entities modify parts of a site, the City requires that items be brought up to City Code and into conformance with current policy and this is the same type of case. He said this is not just a case of extending the current tower. He said after reading the engineering report, it sounds like they have an 80-foot tower lying around somewhere that they want to use. He said this recommendation just doesn't seem right to him.

MILLER commented that it was taxpayer's money and added that the original towers were approved by the Board of Zoning Appeals. He said it may not be correct logic, but that is the logic staff used when making the recommendation.

HILLMAN asked if the wireless guidelines applied to both the City and the County.

DICKGRAFE verified that the Wireless Communication Plan applied to both the City and County.

MIKE DECKER, SPANGENBURG PHILLIPS, AGENT FOR THE APPLICANT said they agree with staff comments. He also mentioned that was the first time they have heard about the monopole requirement.

> **MOTION:** To approve subject to staff recommendation with the addition of a monopole tower structure instead of a lattice tower as per the Wireless Communication Plan.

MARNELL moved, **HILLMAN** seconded the motion, and it carried (11-0-1).
JOHNSON – Abstained.

Agenda Item No. V-1

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00024 – City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on property located north and south of Casa Bella Street; generally located north of Pawnee and west of 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

DAB Recommendation: None.

MAPC Recommendation: Approve (vote unanimous).

MAPD Staff Recommendation: Approve.

Background: The applicant is seeking TF-3 Two-family Residential ("TF-3") zoning on 5.36 acres located on both sides of Casa Bella Street, west of 127th Street East. The property is undeveloped, is currently zoned SF-5 Single-family Residential ("SF-5") and is platted as 18 lots in the Casa Bella 2nd Addition. The previously mentioned 18 single-family lots vary in size from approximately 9,000 to 10,000 square feet. The application area is now the subject of replatting, Casa Bella 3rd Addition (SUB2010-33), with the plat containing 46 lots that have a minimum lot area of 8,619 square feet. If this request is approved, Casa Bella 3rd Addition will create a self-contained duplex neighborhood that is served by a dead-end cul-de-sac street that is only connected to 127th Street East.

The property is located in a developing part of the city that has some: platted but undeveloped ground, developed ground and unplatted farm land. The land abutting the application area to the north, south and west is owned by the applicant and is zoned either SF-5 or LC Limited Commercial ("LC"). Land to the east, across 127th Street East, is zoned SF-5, but is unplatted and used for farming.

In the TF-3 district, the *Wichita-Sedgwick County Unified Zoning Code* requires each single-family residence to have a minimum lot area of 3,500 square feet or 6,000 square feet for a duplex unit (3,000 square feet per unit).

Analysis: At the Metropolitan Area Planning Commission ("MAPC") meeting held August 5, 2010, the MAPC unanimously approved the request, as part of their consent agenda, subject to replatting within one year. There was not anyone present to speak against the proposal, and there have not been any protests filed.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

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

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject replatting within one year.

OCA 150004

ORDINANCE NO. 48-831WP

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00024

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

That part of Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of Lot 2, Block 1, in said addition; thence N89°53'29"W along the south line of said Lot 2 and extended, 600.00 feet to the southerly most southwest corner of Lot 9, Block 1, in said addition; thence N65°18'22"W along the southwest line of said Lot 9 and extended, 190.32 feet to the westerly most southwest corner of Lot 10, Block 1, in said addition; thence N00°04'32"E along the west line of said Lot 10 and extended, 191.67 feet to the southerly most corner of Lot 13, Block 1, in said addition; thence N54°06'03"E, 109.77 feet; thence S89°55'28"E, 150.00 feet; thence S80°04'10"E, 222.08 feet; thence S89°47'06"E, 316.10 feet to the east line of Lot 34, Block 2, in said addition; thence S00°12'54"W along the east line of said Lot 34 and extended, 297.00 feet to the place of beginning, Wichita, Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 21st day of September, 2010.

ATTEST:

_____
Karen Sublett, City Clerk

_____
Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

EXCERPT OF THE AUGUST 5, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2010-24 - Tara Development, Inc. (Gene Vitarelli) / Ruggles and Bohm, P. A. request a City zone change from SF-5 Single Family Residential to TF-3 Two-Family Residential on multiple lots on property described as;

That part of Casa Bella Second Addition, Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of Lot 2, Block 1, in said addition; thence N89°53'29"W along the south line of said Lot 2 and extended, 600.00 feet to the southerly most southwest corner of Lot 9, Block 1, in said addition; thence N65°18'22"W along the southwest line of said Lot 9 and extended, 190.32 feet to the westerly most southwest corner of Lot 10, Block 1, in said addition; thence N00°04'32"E along the west line of said Lot 10 and extended, 191.67 feet to the southerly most corner of Lot 13, Block 1, in said addition; thence N54°06'03"E, 109.77 feet; thence S89°55'28"E, 150.00 feet; thence S80°04'10"E, 222.08 feet; thence S89°47'06"E, 316.10 feet to the east line of Lot 34, Block 2, in said addition; thence S00°12'54"W along the east line of said Lot 34 and extended, 297.00 feet to the place of beginning, generally located north of East Pawnee and west of 127th Street East (12610-12716 and 12603-12715 East Casa Bella Street).

BACKGROUND: The applicant is seeking TF-3 Two-family Residential ("TF-3") zoning on 5.36 acres located on both sides of Casa Bella, east of South 127th Street East. The property is undeveloped, is currently zoned SF-5 Single-family Residential ("SF-5") and is platted as 18 lots in the Casa Bella 2nd Addition. The previously mentioned 18 single-family lots vary in size from approximately 9,000 to 10,000 square feet. The application area is now the subject of replatting, Casa Bella 3rd Addition (SUB2010-33), with the plat containing 46 lots that have a minimum lot area of 8,619 square feet. If this request is approved, Casa Bella 3rd Addition will create a self-contained duplex neighborhood that is served by a dead-end cul-de-sac street that is only connected to 127th Street.

The property is located in a developing part of the city that has some: platted but undeveloped ground, developed ground and unplatted farm land. The land abutting the application area to the north, south and west is owned by the applicant, and is zoned either SF-5 or LC Limited Commercial ("LC"). Land to the east, across 127th Street, is zoned SF-5 but is unplatted and used for farming.

In the TF-3 district, the *Wichita-Sedgwick County Unified Zoning Code* requires each single-family residence to have a minimum lot area of 3,500 square feet or 6,000 square feet for a duplex unit (3,000 square feet per unit).

CASE HISTORY: The property was annexed by the City of Wichita in August of 2004. The site's current zoning of SF-5 was established at the time it was annexed. The property was included in the Casa Bella Addition (SUB2005-25) that was recorded on January 20, 2006. Later, the site was included in a replat, Casa Bella 2nd Addition (SUB20008-34), that was recorded on September 9, 2008. The property is being replatted a third time, Casa Bella 3rd Addition (SUB2010-33), and is scheduled for Subdivision Committee review on July 29, 2010.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5; vacant (proposed single-family residential)
SOUTH: SF-5 and LC; platted as a reserve and vacant
EAST: SF-5; farm field
WEST: SF-5; vacant

PUBLIC SERVICES: 127th Street is a two-lane paved arterial with 90 feet of right-of-way, 60 feet of which are located west of the center line. Municipal services are either available or will be extended as part of the plat.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts the site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types of typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located in a developing part of the city that has some: platted but undeveloped ground, developed ground and unplatted farm land. The land abutting the application area to the north, south and west is owned by the applicant, and is zoned either SF-5 or LC Limited Commercial ("LC"). Land to the east, across 127th Street, is zoned SF-5 but is unplatted and used for farming.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5, which has a relatively restricted list of permitted uses. The property could be used as currently zoned; however, except for the duplex use, the uses permitted by-right in the TF-3 district are the same as the SF-5 district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Except for the duplex use, the uses permitted by-right in the TF-3 district are the same as the SF-5 district. Approval of the request should not have a detrimental impact on nearby property.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide additional choice in the housing market in southeastern Wichita.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts the site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types of typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.

6. Impact of the proposed development on community facilities: Community facilities sufficient to handle expected impacts are already in place or will be guaranteed with the replat.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MARNELL moved, **HILLMAN** seconded the motion, and it carried (11-0).

Agenda Item No. V-2

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

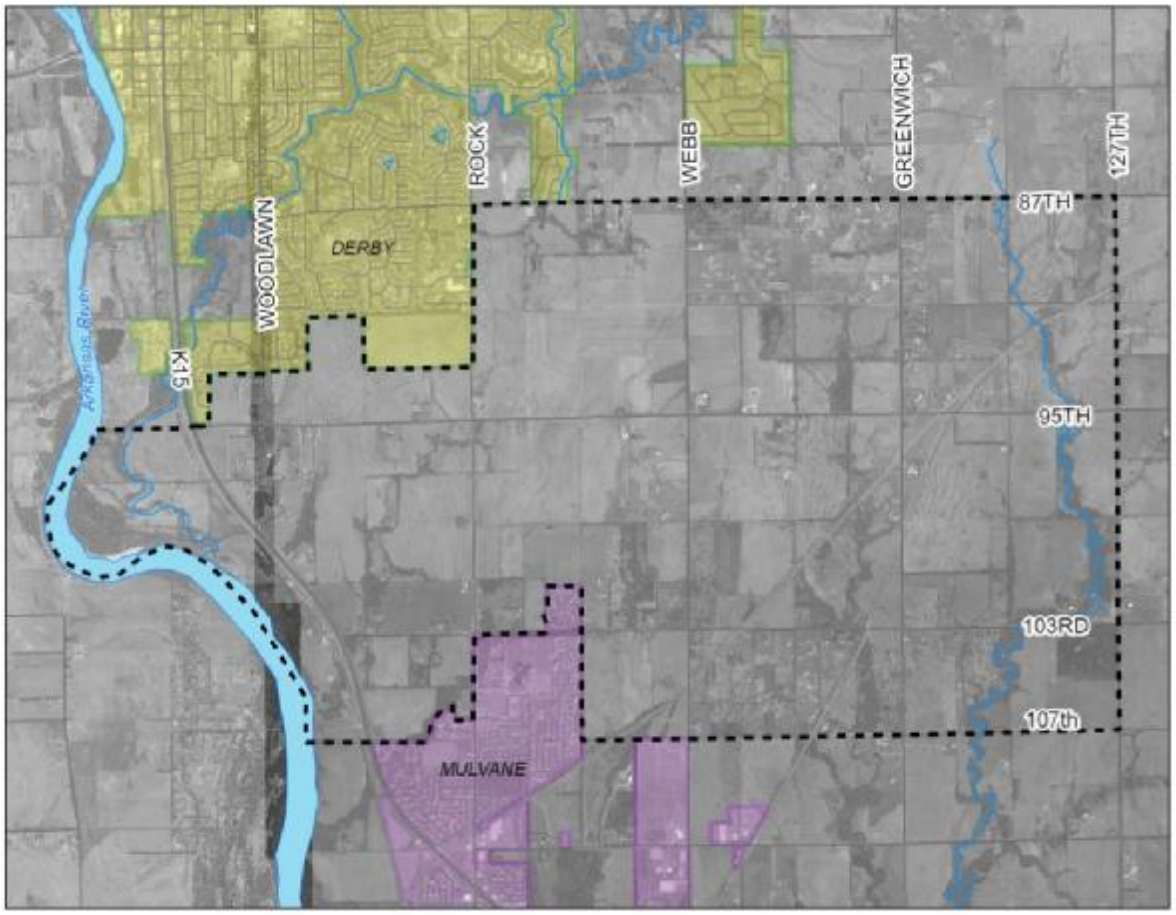
SUBJECT: DER2010-08 Derby-Mulvane Joint Area Plan, 2010-2030 (Within Unincorporated Sedgwick County)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Adopt the Derby-Mulvane Joint Area Plan, 2010-2030 (vote 9-0).

MAPD Recommendation: Adopt the Derby-Mulvane Joint Area Plan, 2010-2030.



Background: In late 2008, Sedgwick County, the City of Derby and the City of Mulvane jointly agreed to develop a plan for the unincorporated area located between the Derby and Mulvane city limits, the Arkansas River and 127th Street East. It was determined that a plan with a 2030 planning horizon was needed to:

- document an agreed upon future land use concept plan for the plan area;
- coordinate delivery of future municipal and county services; and
- define anticipated future corporate limits for the cities of Derby and Mulvane.

Both a Steering Committee and a Technical Advisory Committee were created to direct and advise the development of this plan. The committee members included citizens, local government representatives and other service providers. A draft copy of the plan was posted on the project website and a public open house was held at the Derby Library on May 25, 2010, to receive public comments.

Analysis: The Derby-Mulvane Joint Area Plan, 2010-2030 has been developed to serve as a long-term guide for the plan area. The Plan is proposed to be jointly adopted by Sedgwick County and the cities of Derby and Mulvane as elements of their respective comprehensive plans. In order for it to be adopted as an element of the Wichita-Sedgwick County Comprehensive Plan, the City of Wichita must also adopt the Derby-Mulvane Joint Area Plan. This plan does not directly affect or impact the City of Wichita.

The Derby-Mulvane Joint Area Plan contains many policy recommendations for Sedgwick County, the City of Derby and the City of Mulvane. None of the Derby-Mulvane Plan recommended actions require implementation or funding by the City of Wichita. Below is a listing of the policy recommendations organized by the goal they are intended to achieve.

1) **2030 Future Land Use Concept**
   Based on existing land uses, future service estimates, existing plans and future growth estimates, a Future Land Use Concept has been developed for the plan area that largely reflects the future land use map within the City of Derby 2006 Comprehensive Plan, and the City of Mulvane Comprehensive Plan. The Future Land Use Concept developed for the Plan Area is a compilation of population and employment projections, existing and desired future land use patterns, future service area potential and other current trends.

2) **Ensuring and Enhancing the Ability to Provide the Most Efficient and Effective Services**
   The Derby-Mulvane Joint Area Plan recommends ways to ensure that both Derby and Mulvane are able to provide the most efficient and effective services possible.

3) **Maintain and Enhance Transportation Within and Through the Plan Area**
   The Derby-Mulvane Joint Area Plan, 2010-2030 recommends actions to maintain and enhance transportation within and through the plan area.

4) **Strive to Ensure a Safe Environment**
   The Derby-Mulvane Joint Area Plan recommends actions to help ensure a safe environment in the plan area.

5) **Retain and Enhance Recreation, Open Space, and Historic Areas**
   The Derby-Mulvane Joint Area Plan recommends actions to retain and enhance historic areas, open space and recreation in the plan area.

Financial Considerations: Adopting the Derby-Mulvane Joint Area Plan, 2010-2030 involves no commitment of funding for the City of Wichita.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Metropolitan Area Planning Commission, in accordance with Kansas state statutes, published the required public hearing notice in the official City newspaper on July 29, 2010, held

a public hearing for the proposed Derby-Mulvane Joint Area Plan, 2010-2030 and unanimously approved a resolution adopting the Plan as an amendment to The Wichita-Sedgwick County Comprehensive Plan on August 19, 2010. The Sedgwick County Board of County Commissioners is scheduled to consider adopting the Derby-Mulvane Joint Area Plan, 2010-2030 on September 8, 2010.

The adopting ordinance has been reviewed and approved as to form by the Law Department.

Recommendations/ Actions: It is recommended that the City Council adopt the Derby-Mulvane Joint Area Plan, 2010-2030, as an amendment to the Wichita-Sedgwick County Comprehensive Plan, place the ordinance on first reading and authorize the necessary signatures.

Attachments: Derby-Mulvane Joint Area Plan, 2010-2030

OCA150005

Published in the Wichita Eagle on September 24, 2010

ORDINANCE NO. 48-831

AN ORDINANCE ADOPTING THE *DERBY-MULVANE JOINT AREA PLAN* AS AN AMENDMENT TO THE *WICHITA-SEDGWICK COUNTY COMPREHENSIVE PLAN*.

WHEREAS, pursuant to the authority granted by the statutes of the State of Kansas, in K.S.A. 12-747 *et seq.*, the Wichita-Sedgwick County Metropolitan Area Planning Commission developed a Comprehensive Plan, adopted by the City of Wichita and Sedgwick County in 1993, and amended in 1996, 2000, 2002, 2005, 2006, 2007; 2008, and 2009, and

WHEREAS, the Comprehensive Plan may be amended, as needed, to ensure it reflects timely and relevant information and the needs of the community; and

WHEREAS, Sedgwick County in collaboration with the City of Derby, and the City of Mulvane, undertook the development of the *Derby-Mulvane Joint Area Plan, 2010-2030* to document an agreed upon future land use concept plan for the plan area, coordinate delivery of future municipal and county services to the plan area, and define anticipated future corporate limits for the cities of Derby and Mulvane; and

WHEREAS, before the adoption of any Comprehensive Plan or amendment thereto, the Wichita-Sedgwick County Metropolitan Area Planning Commission is required by K.S.A. 12-747 to hold a public hearing; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission did give notice by publication in the official City and County newspaper on July 29, 2010, of a public hearing on said plan area; and

WHEREAS, the Wichita-Sedgwick County Metropolitan Area Planning Commission, on August 19, 2010, did hold a public hearing at which a quorum was present, and did hear all comments and testimony relating to said plan area, and approved a resolution adopting the *Derby-Mulvane Joint Area Plan, 2010-2030*, as an amendment to the *Wichita-Sedgwick County Comprehensive Plan.*

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

SECTION 1. The City of Wichita hereby adopts the *Derby-Mulvane Joint Area Plan, 2010-2030*, as an amendment to the *Wichita-Sedgwick County Comprehensive Plan*; and

SECTION 2. Notice of this action shall be transmitted to the Sedgwick County Board of County Commissioners and to all other taxing subdivisions in the planning area that request a copy of the plan.

SECTION 3. This ordinance shall become effective and be in force from and after its adoption and publication once in the official City newspaper.

ADOPTED at Wichita, Kansas, this September 21, 2010.

_____
Carl Brewer, Mayor

ATTEST:

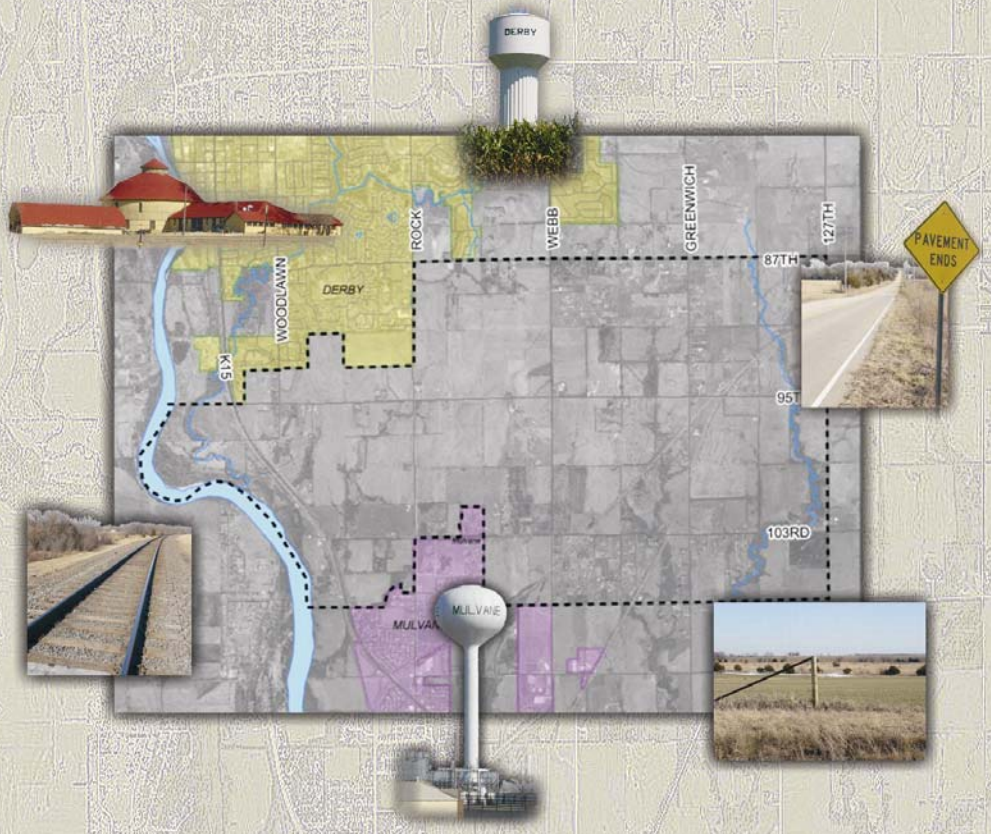
_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Derby-Mulvane Joint Area Plan

2010-2030



June 2010

Acknowledgements

Steering Committee

The Steering Committee guided the development of the Derby-Mulvane Joint Area Plan, ensuring that the plan document meets the needs of our communities and future residents. The Steering Committee was comprised of the following stakeholders.

Cheryl Bannon	Derby City Council Member
Lyle Blue	Mulvane Planning Commissioner
Darrell Downing	Wichita-Sedgwick County Planning Commissioner
Jim Ford	Mulvane City Mayor
Kent Hixson	Mulvane City Administrator
Jay Patterson	Mulvane Planning Commissioner
Dolan Pelley	Derby Planning Commissioner
Kathy Sexton	Derby City Manager
Keith Volz	Derby Planning Commissioner
Gwen Welshimer	Sedgwick County Commissioner

Technical Advisory Committee

The Technical Advisory Committee assisted the Steering Committee by providing technical expertise and information during the development of the plan. The Technical Advisory Committee was comprised of the following representatives.

Jeff Adams	Vice President of Operations, Butler Rural Electric Co-op
Donna Augustine -Shaw	Superintendant, USD 263 Mulvane
Kevin Baker	Street Supervisor, City of Mulvane
Stephen Banks	Senior Planner, Wichita-Sedgwick County MAPD
Dave Barber, AICP	Advanced Plans Division Manager, Wichita-Sedgwick County MAPD
Charlie Brown	Director of Community Development, City of Derby
Suzanne Coin	Westar Energy
Galen Cummins	Utility Production Director, Mulvane Utilities
Ray Fleming	City Inspector, City of Mulvane
Kent Hixson	City of Mulvane Administrator
Ashley Jones	Planning Aide/Graphic Design, Wichita-Sedgwick County MAPD
Bob Lamkey	Director of Public Safety, Sedgwick County
Keith Lane	Kansas Gas Service
Robert Mendoza	Director of Public Works, City of Derby
Brad Modlin	Utility Distribution Director, Mulvane Utilities
Bud Newberry	City Planner, City of Derby
Frank Parker	Technician, Sedgwick County Rural Water District #3
Bill Pater	Deputy Fire Chief, City of Derby
Jimmy Queen	Police Patrol Division Commander, City of Derby
Kathy Sexton	City Manager, City of Derby
Jean Shuler	Business Manager, Westar Energy
Tom Snodgrass	Operations, USD 260 Derby
Scott Wadle, AICP	Senior Planner, Wichita-Sedgwick County MAPD
Kendra Walls	Parks Superintendent, City of Mulvane
Barbara Williams	Southern Star Central Gas Pipeline
Dave Williams	Police Chief, City of Mulvane

INSERT COPIES OF ADOPTION ORDINANCES

Table of Contents

Acknowledgements 2

Steering Committee 2

Technical Advisory Committee 3

Executive Summary 7

Chapter 1: Introduction 8

Need for a Plan 8

Plan Purpose 8

Plan Time Horizon and Boundaries 8

Plan Development Process 9

Existing Conditions Analysis Summary 9

Future Urban Growth Estimates Analysis Summary 9

Large Lot Residential Subdivision Analysis Summary 10

Chapter 2: Vision, Goals, Objectives, Strategies, and Future Land Use 11

Vision Statement 12

Goals, Objectives, and Strategies 13

2030 Future Land Use Guide 15

Chapter 3. Strategy Details 17

Chapter 4 Critical Path 42

Policy Actions Critical Path Table 43

Infrastructure Actions Critical Path Table 46

Non-Critical Path Actions Table 48

Appendix A: Existing Conditions Report

Appendix B: Future Urban Growth Estimates Report

Appendix C: Large-Lot Residential Subdivisions Report

Appendix D: Kansas Local Government Agreement Examples

Appendix E: Derby and Mulvane Written Agreement Example

Appendix F: Development Scenarios Report

Appendix G: Recommended Future Roadway Improvements Report

Appendix H: May 25, 2010 Open House Event Report

Executive Summary

The Derby-Mulvane Joint Area Plan is a plan for the area located between the City of Derby and City of Mulvane, bounded by the Derby City limits and 87th Street to the north; 127th Street to the east; a half mile south of 103rd Street and the Mulvane City limits; and the Arkansas River to the west. The plan helps to coordinate area stakeholders helping to ensure that residents of the area will have a high quality of life and access to efficient services. In order to achieve this, the plan presents a recommended vision of the area by the year 2030 and the actions necessary to achieve the vision. The goals are listed below.

- Goal I. Ensure and enhance the ability of Derby and Mulvane to provide the most efficient and effective services to areas of future expansion
- Goal II. Maintain and enhance transportation within and through the plan area
- Goal III. Strive to ensure a safe environment
- Goal IV. Retain and enhance recreation, open space, and historic areas

A total of 16 strategies are identified to implement the plan. These strategies identify the lead organization, estimated costs, and estimated duration to accomplish them. They are organized according to the objective and goals that they help to accomplish.

Chapter 1: Introduction

Need for a Plan

In 2008 representatives from the City of Derby and City of Mulvane agreed on the need to coordinate the multiple jurisdictions that currently operate and are likely to operate within the plan area.

Plan Purpose

The City of Derby, City of Mulvane, and Sedgwick County agreed that the purpose of the plan is to:

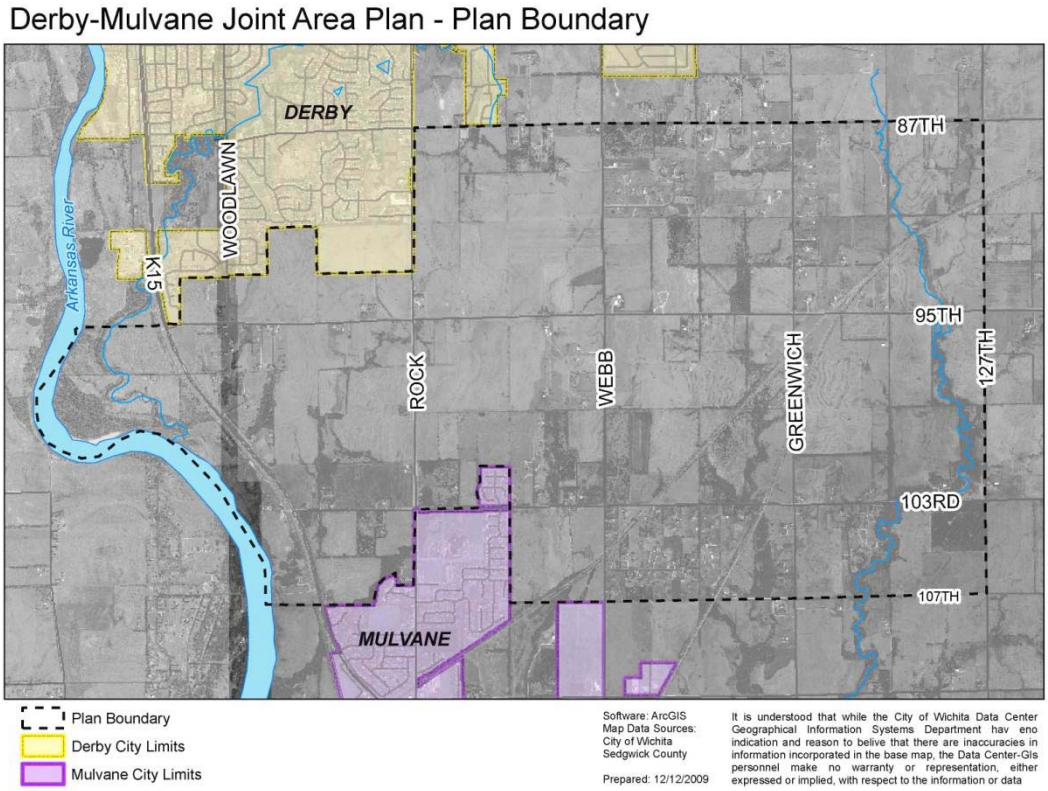
- document an agreed-upon future land use concept plan for the plan area;
- coordinate delivery of future municipal and county services to the plan area; and
- define anticipated future corporate limits for the cities of Derby and Mulvane.

Plan Time Horizon and Boundaries

Time: the time horizon for this plan spans to the year 2030.

Geography: the plan area is located between the City of Derby and City of Mulvane (see the map below). The plan boundaries are the Derby City limits and 87th Street to the north; 127th Street to the east; a half mile south of 103rd Street and the Mulvane City limits; and the Arkansas River to the west.

Map 1: Plan Boundary



Plan Development Process

This plan was developed by Derby-Mulvane Joint Area Plan Steering Committee during a 18 month process. While developing the plan document, the Steering Committee received input from a Technical Advisory Committee made up of representatives of area stakeholders and service providers. The process included the development of three supplemental documents: an inventory of the existing conditions; a review of anticipated future population and job growth; and a review of existing regulation of large-lot residential developments in unincorporated parts of Sedgwick County. These documents are available in the appendices of this plan.

Existing Conditions Analysis Summary

Multiple streams and their tributaries travel through the plan area, generally flowing in a southerly direction. The topography in the area is varied, with relatively well defined stream corridors. However, flooding is a concern. Approximately 15 percent of the plan area lands are within the F.E.M.A. identified 100 year floodplain.

The plan area, including the Arkansas River, may provide habitat for four different threatened animal species. A majority of lands in the plan area are also well suited for agricultural activity. Most are in agricultural use, with clusters of unincorporated large-lot residential properties scattered throughout the plan area. The residential users are primarily located near edges of Derby and Mulvane, in the north and south portions of the plan area. The eastern half of the area is not well suited for septic systems.

The plan area is served by paramedic, medical transport, fire, and law enforcement services. Less than half of the plan area is within a storm siren coverage area. Water, electric, and gas services are also available. Two school districts serve the area. No public libraries or public parks are located within the area, but are available within Derby or Mulvane.

Recent regional transportation studies have identified the need for an additional roadway bridge over the Arkansas River, a segment of a four-lane access controlled divided roadway loop, and a bike path within the plan area. By 2030, four roadway bridges will require upgrades or replacement. The plan area has one of the highest train traffic volumes in Sedgwick County. Three separate railroad corridors travel through the plan area, with a combined average daily traffic total of more than 90 trains per day.

The cities of Derby and Mulvane are greatly able to influence the future development of the area through the use of the Extraterritorial Subdivision Regulation Areas and Zoning Areas of Influence. These regulatory areas allow the municipalities to regulate subdivision/platting activities and to influence County zoning decisions. The boundaries for both regulatory areas are the same, extending from the Arkansas River to Woodlawn Boulevard, then along 95th Street South to 127th Street.

Future Urban Growth Estimates Analysis Summary

Population and job growth in the plan area by the year 2030 will be limited. The areas of growth will primarily be concentrated near the existing Derby city limits, Mulvane city limits, and K-15. The majority of the plan area will remain in agricultural use by 2035. The Wichita-Sedgwick County Metropolitan Area Planning Department estimates that approximately 650 new homes and approximately 65 new jobs will

be created within the plan area by the year 2030. The amount of land in the plan area identified in either the Derby or Mulvane comprehensive plans for future development is approximately four times the amount necessary to accommodate the forecasted residential demand. The excess capacity allows for development flexibility, but also makes the sequencing and location of infrastructure important considerations for local governments.

Large Lot Residential Subdivision Analysis Summary

The ability to develop large lot residential developments (single-family residential uses on parcels smaller than 20 acres in size and larger than urban/suburban residential densities) is a concern for the long term ability of Derby and Mulvane to provide efficient and effective services to lands within their future urban growth areas. Based on a review of the approaches available to Derby and Mulvane, it is recommended that both Derby and Mulvane update their subdivision regulations to establish/require urban infrastructure standards for proposed subdivisions in the unincorporated portions of the plan area and that they encourage Sedgwick County to change the zoning for the plan area to provide Derby and Mulvane an opportunity to review the appropriateness of the requested zoning through the use of their existing Zoning Area of Influence.

Chapter 2: Vision, Goals, Objectives, Strategies, and Future Land Use

The vision statement is the heart of this plan. The vision statement describes what the community desires the plan area to be in the year 2030. It is a broad general statement that provides the framework for this document by identifying key elements and conditions.

From the vision statement, the Steering Committee has developed the goals, objectives, and strategies. Goals, objectives, and strategies are the recommended ways of achieving the vision of the future for the area. They are generally arranged from the most broad/general concepts to the most specific. Below are brief definitions of goals, objectives, and strategies.

Goals: General aspirations the community wants to work towards achieving. The work of completing a goal is seldom ever completed, it is something that we continually strive to achieve.

Objectives: Specific initiatives that if accomplished will lead to the realization of the goals and vision statement. There may be more than one way to accomplish an objective, or more than one action that must be undertaken.

Strategies: Strategic actions that are recommended to be undertaken to achieve the objective, goal, and vision statement. Each of the strategies includes a table with a description of the action items, lead organizations, estimated costs (in 2010 dollars), and the estimated duration to complete the action.

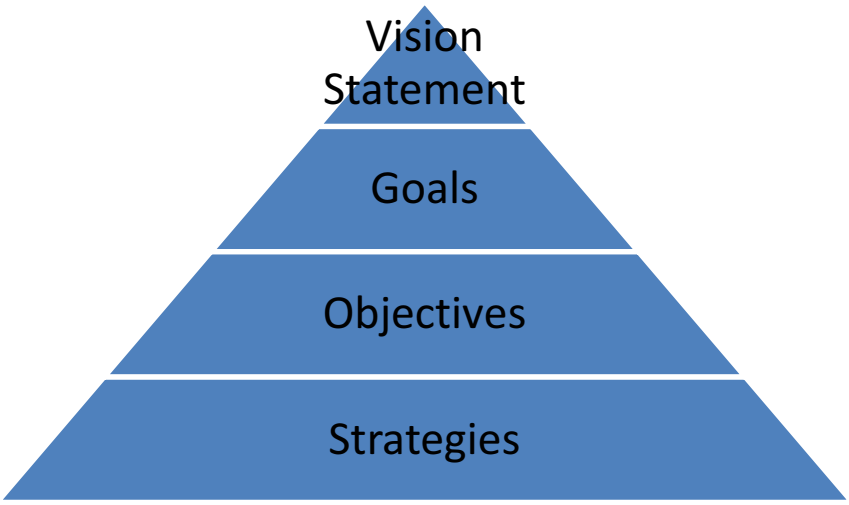


Figure 1: Vision, Goals, Objectives, and Strategies Relationship

Vision Statement

We envision that in the year 2030 the plan area will include pockets of contiguous urban development, predominately residential, with efficient urban services. These pockets will be located in the northern and southern portions of the plan area adjacent to Derby and Mulvane. Rural residential lots, with limited municipal services, will be clustered throughout the planning area and a minimal amount of new ones will have been developed since the adoption of the Plan in 2010. The majority of the plan area will be in agricultural production.

Residents and visitors will travel through the plan area using high quality roadways and bike paths. Residents will also enjoy easy access to recreation along the Arkansas River. Greenways will surround selected area water bodies- providing public recreation corridors, wildlife habitat, and encouraging responsible development in flood-prone areas.

The communities of Derby, Mulvane, and Sedgwick County will continue the tradition of excellent communication and coordination. Joint planning among the communities will have helped to ensure that residents have access to high-quality efficient services.

Goals, Objectives, and Strategies

Goal I. Ensure and enhance the ability of Derby and Mulvane to provide the most efficient and effective services to areas of future expansion

- Objective 1. Identify and coordinate future urban growth
  - Strategy 1. Adopt a plan showing a future land use scenario agreed upon by Derby, Mulvane, and Sedgwick County
  - Strategy 2. Endorse a written agreement identifying future jurisdictional boundaries between the communities of Derby and Mulvane
  - Strategy 3. Host an annual coordinating meeting of Derby, Mulvane, and Sedgwick County representatives
- Objective 2. Discourage the large-lot rural residential development
  - Strategy 1. Adopt zoning regulations requiring residential developments to be of urban density or larger than 20 acres in size
  - Strategy 2. Update the Derby and Mulvane subdivision regulations to establish urban infrastructure standards (i.e. paved roadway access, sewer systems compatible with municipal services) for proposed subdivisions
- Objective 3. Develop new urban areas in a contiguous manner
  - Strategy 1. Continue the existing infrastructure payment policies for water and sewer main lines, streets, and stormwater drainage to charge the full costs to new developments for non-contiguous extension of services, rather than to city taxpayers.

Goal II. Maintain and enhance transportation within and through the plan area

- Objective 1. Improve automobile transportation infrastructure and services
  - Strategy 1. Implement the priority South Area Transportation Study improvements
  - Strategy 1. Upgrade or replace four roadway bridges in the plan area
- Objective 2. Develop bicycle infrastructure to connect Derby and Mulvane
  - Strategy 1. Design and construct the bicycle connections along Rock Road and the Arkansas River

Goal III. Strive to ensure a safe environment

- Objective 1. Minimize damages due to flooding
  - Strategy 1. Adopt similar or uniform local government stormwater regulations
  - Strategy 2. Establish and utilize stream setback guidelines and other stormwater best management practices to help encourage responsible development in the 100 year floodplain and to mitigate the negative effects of such development

Objective 2. Prevent high exposure to potential explosive hazards

Strategy 1. Update subdivision regulations to require that high-pressure gas transfer pipelines through residential developments be included only within reserves or rights-of-way and not in residential lots.

Objective 3. Prevent exposure to excessively loud noises

Strategy 1. Identify railroad noise contours and implement strategies to prevent exposure of sensitive uses to excessively loud noises.

Goal IV. Retain and enhance recreation, open space, and historic areas

Objective 1. Obtain areas for public recreation that serve the plan area

Strategy 1. Develop a regional park and recreation plan for the plan area

Strategy 2. Establish and utilize riparian corridor overlays

Objective 2. Preserve historic and cultural resources

Strategy 1. Encourage the listing of the "Round Barn" on the National Register of Historic Places

2030 Future Land Use Guide

The Steering Committee recommends the future land use configuration identified on the following 2030 Future Land Use Guide as the shared vision for future land use in the plan area to the year 2030. The 2030 Future Land Use Guide was developed with the input from community stakeholders and the Plan Technical Advisory Committee; and serves only as a guide for future land use decisions. Below are descriptions for each of the 2030 Future Land Use Guide land use categories.

Parks/Open Space:

Areas of predominately active and passive parks, open space, recreation, environmentally sensitive areas, or any other lands reserved for open space purposes.

Institutional:

This category includes institutional uses such as schools, churches, post offices, hospitals, fire stations, libraries, cemeteries, governmental uses and religious institutions.

Agricultural (generally 1 or fewer residential units per 20 acres or more):

Land area principally in use for agricultural production and may be used for farming, crops, pasture, agribusiness ventures such as growing and marketing of products, and a limited number of rural residences.

Rural Residential Acreage (generally 1 unit per property at least 2 acres but smaller than 20 acres in size):

This category designates land areas developed with rural single-family dwellings on lots ranging from 2 acres to less than 20 acres in size, typically served by on-site private sanitary sewer/septic systems. The City is not expected to extend municipal services to properties within this category.

Moderate Density Urban Residential (generally up to 6 units per acre):

Development within this category will be developed below 6 dwelling units per acre and will primarily include single-family detached dwellings, townhomes, or single-family structures with detached accessory dwelling units (i.e. granny flat or carriage house).

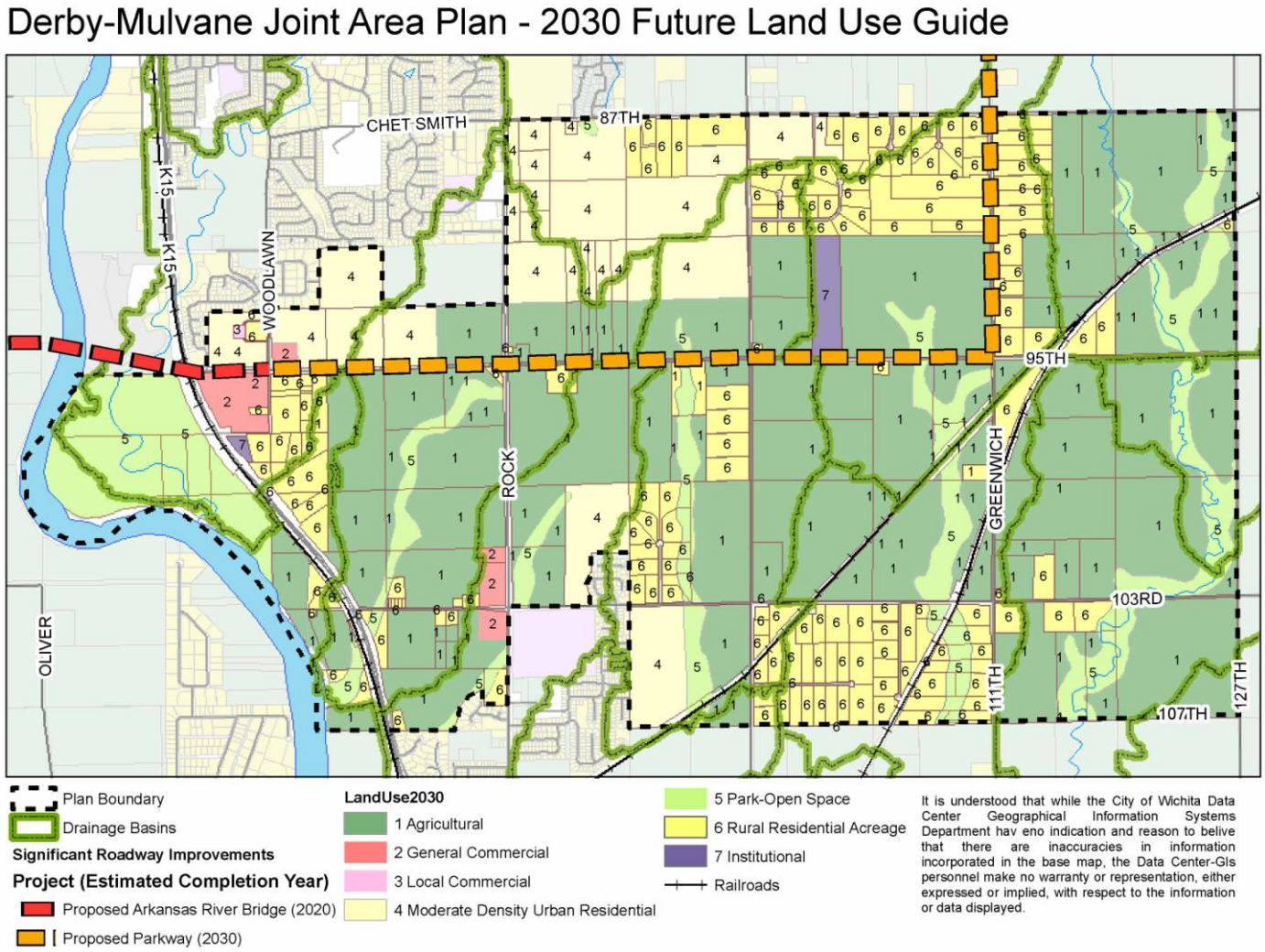
Local Commercial:

This category includes a limited variety of local office, retail and general business service uses. They are generally smaller in scale.

General Commercial:

This category includes a broad variety of regional office, retail, and general business service uses whether located in centers or in standalone buildings. Developments in this category are generally larger in scale.

Map 2: 2030 Future Land Use Guide



Chapter 3. Strategy Details

Below are detailed explanations of the Plan strategies to accomplish the Plan objectives, goals, and vision.

1.1.1. Adopt a plan showing a future land use scenario agreed upon by Derby, Mulvane, and Sedgwick County

Rationale

Without a shared vision, cooperation between local governments is difficult to achieve and maintain. The adoption of this plan with the future land use scenario for the plan area is recommended by the Steering Committee because it can help to prevent disagreements by providing a description of a shared vision for future land use in the plan area.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Cost
Adopt the Derby-Mulvane Joint Area Plan as an element of the City Comprehensive Plan	City of Derby	Less than six months	None
Adopt the Derby-Mulvane Joint Area Plan as an element of the City Comprehensive Plan	City of Mulvane	Less than six months	None
Adopt the Derby-Mulvane Joint Area Plan as an element of the Wichita-Sedgwick County Comprehensive Plan	Wichita-Sedgwick County, MAPC	Less than six months	None
Encourage the City of Wichita to adopt the Derby-Mulvane Joint Area Plan as an element of the Wichita-Sedgwick County Comprehensive Plan	Sedgwick County, County Commission	Less than six months	None

1.1.2. Endorse a written agreement identifying future jurisdictional boundaries between the communities of Derby and Mulvane

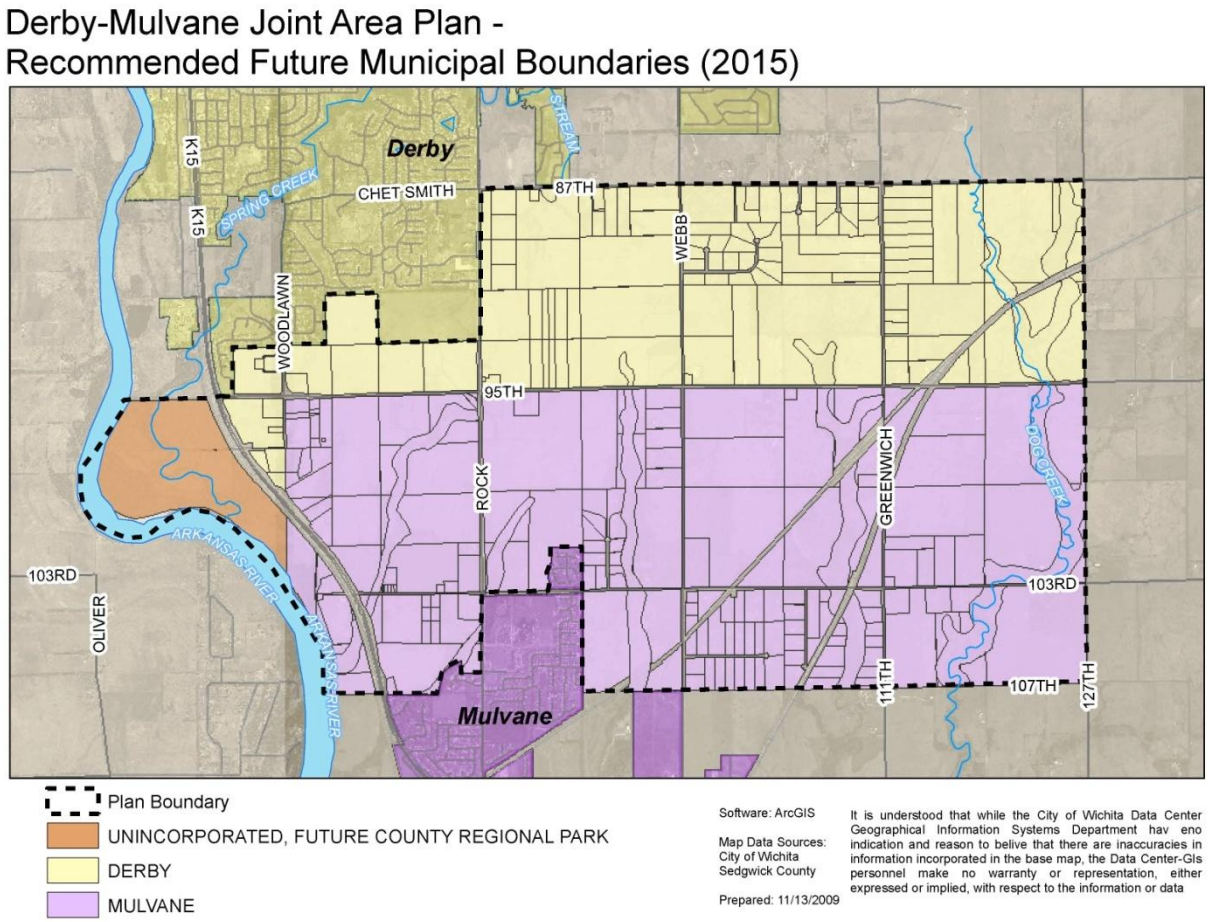
Rationale

It is recommended that the city councils of Derby and Mulvane endorse a written agreement between the local governments regarding the future jurisdictional boundaries between the communities. The agreement should be for a limited duration of time (i.e. five years) after which the two communities would need to consult and agree to extend the agreement or any revised version.

The agreement would be more formal than the current arrangement, helping to both preserve a good working relationship between communities and to ensure that communities are able to provide efficient and high quality services. The Steering Committee recommends that Derby and Mulvane utilize the following map of future municipal boundaries as a guide when developing the agreement. The recommended boundaries are the same boundaries of the current Extraterritorial Subdivision Authority Areas and the Zoning Areas of Influence.

Attached in Appendix E is a recommended written agreement for consideration and endorsement by the Derby and Mulvane city councils. The Appendix D includes copies of agreements between municipalities in Kansas.

Map 3: Recommended Future Municipal Boundaries (2015)



Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Endorse a written agreement identifying the future jurisdictional boundaries of Derby and Mulvane	City of Derby	One year	None
Endorse a written agreement identifying the future jurisdictional boundaries of Derby and Mulvane	City of Mulvane	One year	None

1.1.3. Host an annual coordinating meeting of Derby, Mulvane, and Sedgwick County representatives

Rationale

The Steering Committee recommends that Sedgwick County, Derby, and Mulvane create a task force to continue coordination efforts between the communities. The task force should meet at least once a year to coordinate efforts, track performance, and to recommend amendments to this plan. The responsibility to host the meeting should be done on a rotating basis by all participating organizations.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	City of Derby	Annually, two hours	None
Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	City of Mulvane	Annually, two hours	None
Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	Sedgwick County, Wichita-Sedgwick County MAPD	Annually, two hours	None

1.2.1. Adopt zoning regulations requiring residential developments to be of urban density or larger than 20 acres in size

Rationale

Currently, more than 99 percent of the plan area is zoned RR "Rural Residential". Single-Family residential use is permitted by right in this zoning district and does not require any zoning review. If the property is served by a sewage lagoon, then the minimum lot size required for single-family use in the RR zoning district is 4.5 acres. However, the lot size can be reduced to a minimum of 2 acres when specific conditions are met.

It is recommended that Derby and Mulvane encourage Sedgwick County to adopt zoning restricting the ability for properties within the plan area and outside of areas identified for rural residential acreage use on the 2030 Land Use Guide, to be developed as large lot residential dwellings smaller than 20 acres in size. The zoning change to restrict the development of large lot residential properties will help to ensure that Derby and Mulvane are able to provide efficient and effective services to lands within their long-term growth areas by providing Derby and Mulvane an opportunity to review the appropriateness of developments that may be difficult to retrofit for municipal services; may restrict the ability of municipalities to extend urban services beyond; can be more difficult to redevelop; and could impair the ability of agricultural uses to operate in close proximity.

The recommended changes to the zoning regulations would increase the minimum lot size, while also providing flexibility for communities and property owners to address specific circumstances (land use, intensity, and location). Through zoning, the property owner could rezone the property if they wished to utilize the property for a different land use or wished to subdivide the property into parcels smaller than 20 acres in size. If this were to occur, Derby and Mulvane would have an opportunity to review the requested zoning district change and to provide a recommendation to the County Commission. It is also important to note that the Derby and Mulvane subdivision regulations exempt properties from platting that will be for residential or agricultural use, are 20 acres in size or larger, and meet the necessary conditions identified in the regulations.

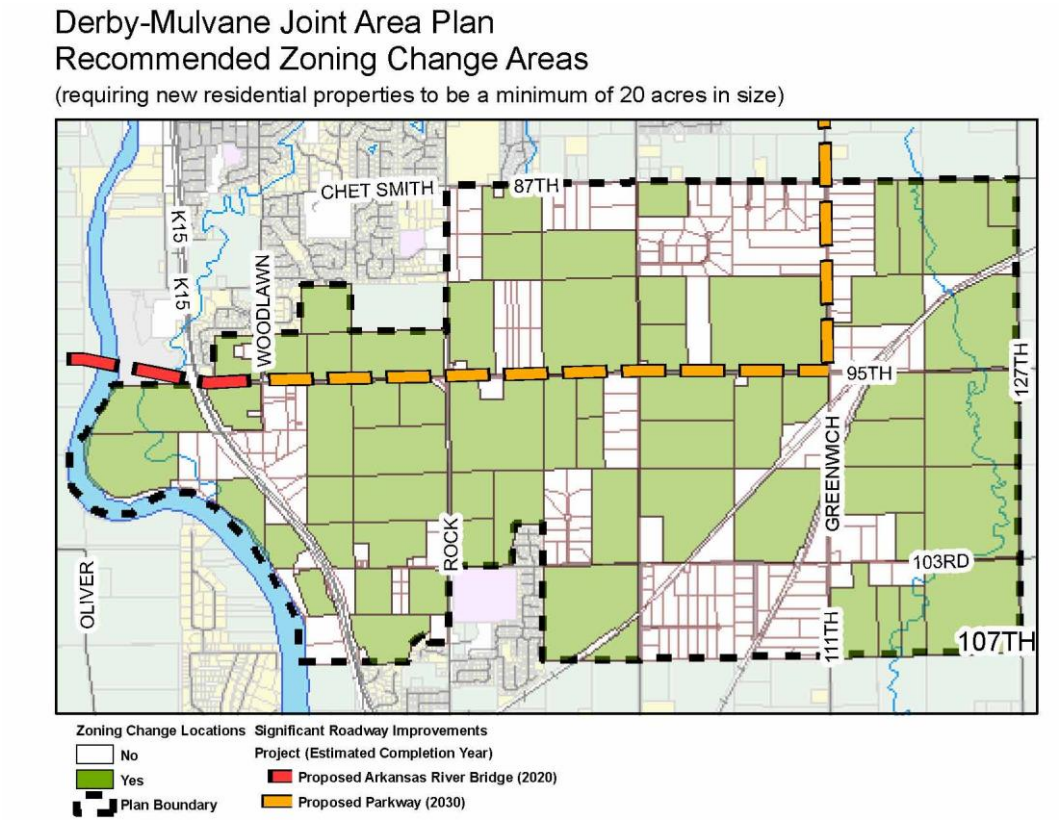
If applied carefully, the new zoning regulations could be applied to portions of the plan area so that a few or no new non-conforming land uses are created. If any non-conforming land uses were created, then they would still be able to operate so long as they complied with the applicable conditions listed in Article VII of the Wichita-Sedgwick County Zoning Code. These provisions generally work to prevent expansion of the non-conforming use at the site, limit the ability rebuild after substantial damages, and limit the ability of the operations to resume after an extended period of vacancy.

The locations identified for application of the new zoning category or overly district have been selected based on the recommended future land use and the ability to implement the zoning changes without creating non-conforming uses. The areas where the zone change is

recommended are all currently in agricultural use (according to the County Assessor's records), identified for a 2030 future land use other than Rural Residential Acreage, and larger than 20 acres in size The map below illustrates the recommended zoning change areas

This issue is explored more fully in Appendix C: Large-lot Residential Subdivisions Report, which includes a summary of current regulations, a description of the impacts of large-lot residential developments, a summary of options, and a recommendation for future regulatory changes. The recommendation for zoning changes is more fully described in Appendix F: Development Scenarios, which includes a description of potential development scenarios for properties where zoning changes are recommended.

Map 4: Recommended Zoning Change Areas



Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Encourage Sedgwick County to adopt zoning restricting the ability for properties within the plan area and outside of areas identified for rural residential acreage use on the 2030 Land Use Guide to be developed as large-lot residential dwellings smaller than 20 acres	City of Derby	One year	None
Encourage Sedgwick County to adopt zoning restricting the ability for properties within the plan area and outside of areas identified for rural residential acreage use on the 2030 Land Use Guide to be developed as large-lot residential dwellings smaller than 20 acres	City of Mulvane	One year	None

1.2.2. Update the Derby and Mulvane subdivision regulations to establish urban infrastructure standards (i.e. paved roadway access, sewer systems compatible with municipal services) for proposed subdivisions

Rationale

The Wichita-Sedgwick County zoning regulations paired with the Derby or Mulvane platting regulations allow for residential properties to be developed within the plan area that neither receive municipal services nor include the infrastructure to connect to municipal services in the future. This can result in the creation of subdivisions within the plan area and urban growth areas that are difficult to retrofit for municipal services, restrict the ability of municipalities to extend services, are difficult to service in a cost effective manner, are difficult to redevelop, and impair the ability of agricultural uses to operate in close proximity. It is recommended that the subdivision regulations for Derby and Mulvane be updated to establish infrastructure standards for proposed subdivisions, in order to help to ensure that future developments have the ability to connect to municipal systems in a cost effective manner, and that the cost of development include not just the present costs of development but also future adaptation for future needs.

The use of urban infrastructure standards could require that proposed subdivisions include specific infrastructure to match the municipal systems (i.e. paved roadways, sewer lines, water distribution systems, etc.). Examples of infrastructure standards for proposed subdivisions are available in Article VIII of the Wichita-Sedgwick County Subdivision Regulations. Existing subdivisions would not be impacted by the new standards for proposed subdivisions.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Update subdivision regulations to establish urban infrastructure standards for proposed subdivisions	City of Derby	One year	Unknown
Update subdivision regulations to establish urban infrastructure standards for proposed subdivisions	City of Mulvane	One year	Unknown

1.3.1. Continue the existing infrastructure payment policies for water and sewer main lines, streets, and stormwater drainage to charge the full costs to new developments for non-contiguous extension of services, rather than to city taxpayers.

Rationale

In order to ensure the most efficient and effective services possible, the Steering Committee recommends that Derby and Mulvane continue their infrastructure payment policies that charge the full cost of service extensions (i.e. water, sewer, roads, etc.) to developments that are not adjacent to existing developments with municipal services. These policies help to ensure that non-contiguous developments pay the generally higher costs (compared with contiguous developments) associated with providing municipal services.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Continue the existing infrastructure payment policies to charge the full costs to developments for non-contiguous extensions of services	City of Derby	None	None
Continue the existing infrastructure payment policies to charge the full costs to developments for non-contiguous extensions of services	City of Mulvane	None	None

2.1.1. Implement the priority South Area Transportation Study improvements

Rationale

It is recommended that Derby, Mulvane, and Sedgwick County work to implement the Derby-Mulvane Plan area roadway improvements recommended in the 2008 Wichita Area Metropolitan Planning Organization South Area Transportation Study (SATS) by completing an engineering concept study for the Arkansas River Bridge, 95th Street and Greenwich Road Parkway improvements. The engineering concept study will evaluate the feasibility of the projects, identify land needs, estimate costs, and develop general designs of the recommended roadway improvements. Once the study is completed, more detailed engineering documents will need to be created and funding for projects secured.

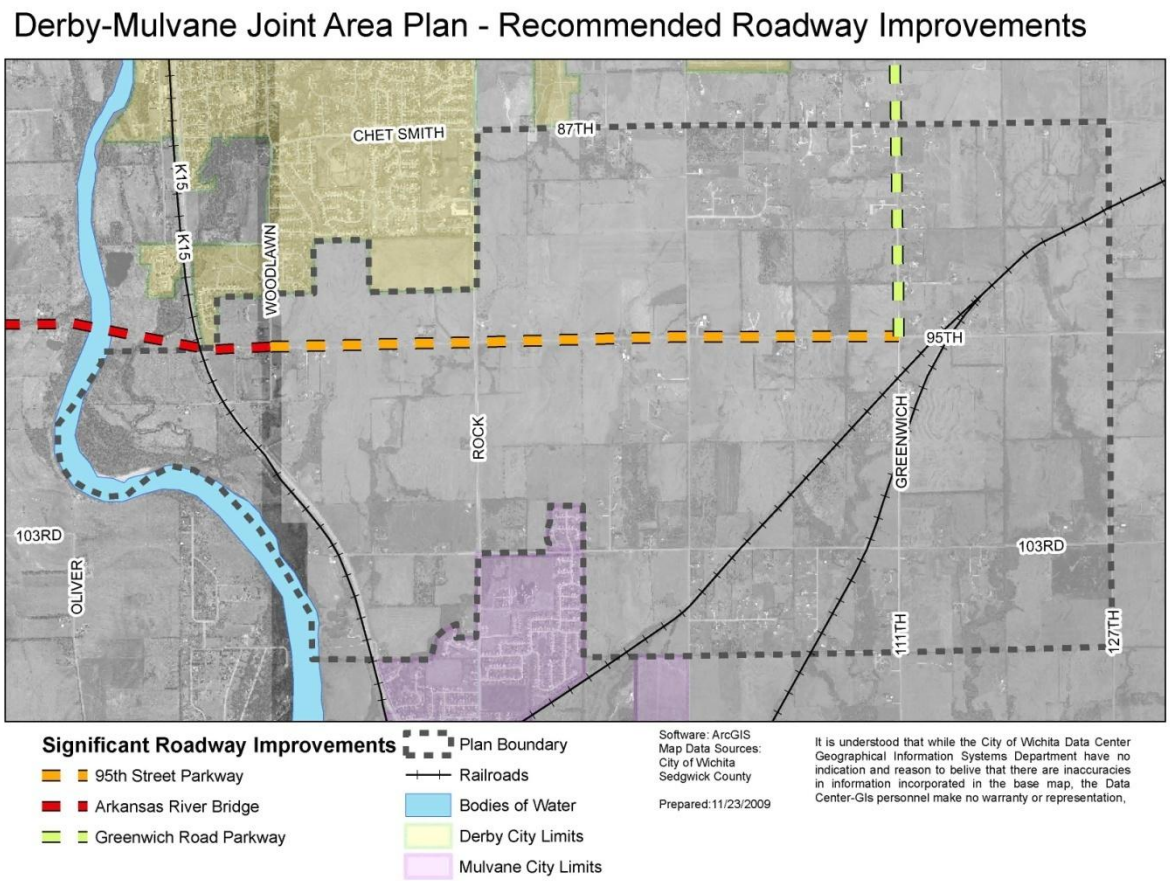
The WAMPO Policy Body approved the SATS on April 8, 2008. The study reviewed the existing transportation roadway infrastructure and provided recommendations for future improvements within the area generally bounded by Kellogg (US 54) on the north; Meadowlark Road to the east; 263rd Street to the west; and the Ninnescah River, Butler County line, and Mulvane City limits to the south. Based on the projections for future use and cost effectiveness of projects, the WAMPO SATS recommended the development of a new bridge across the Arkansas River and creation of four-lane semi-access controlled major arterial loop approximately 150 feet-wide along Greenwich Road and 95th Street South. These long-term roadway improvements will help to ensure efficient and effective transportation infrastructure for both local and regional commutes, further explained in the SATS document.

In order to preserve the ability to implement the arterial loop parkway recommended in the WAMPO SATS document, the Steering Committee also recommends that the Derby and Mulvane subdivision regulations be changed to require the appropriate dedication of rights-of-way during the platting process to allow for the construction of the 150 foot wide arterial loop parkway along 95th Street and Greenwich Road. The City of Mulvane subdivision regulations generally require dedication of 80 feet in width for arterials not shown in the Mulvane Comprehensive Plan (Greenwich and 95th are not identified in the Mulvane Comprehensive Plan) and rights of way dedications of 80 – 100 feet in width for arterials shown in the Mulvane Comprehensive Plan , per Article 107. The City of Derby subdivision regulations generally requires rights of way dedications totaling 120 feet in width for arterial streets (all section line roads are considered arterial streets), per Article 602.B.

Funds for the recommended roadway improvement projects are not currently secured. The Steering Committee recommends that Derby and Mulvane partner with Sedgwick County both to contribute funding; and to secure regional, State, and Federal funding. A coalition of local government funding partners reduces the high costs for a single organization and shows significant commitment to a project. A coalition of funding partners can also greatly increase the odds of being awarded funding through a competitive application process. A table listing the

recommended roadway improvement actions in the recommended sequence is available in Appendix G: Recommended Future Roadway Improvements Report.

Map 5: Recommended Roadway Improvements



Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs (2010 dollars)
Update the subdivision regulations to require the appropriate dedication of rights-of-way during the platting process to allow for the construction of the recommended 150 foot wide arterial loop parkway.	City of Derby	One year	None
Update the subdivision regulations to require the appropriate dedication of rights-of-way during the platting process to allow for the construction of the recommended 150 foot wide arterial loop parkway.	City of Mulvane	One year	None
Apply for portions of 95th Street South and Greenwich Road to be classified as arterials on the WAMPO Federal Classification Map	Sedgwick County, Public Works	One year	None
Perform an engineering concept study for the Arkansas River Bridge, 95th Street, and Greenwich Road parkway improvements. The study should identify possible bicycle facilities.	Sedgwick County, Public Works	Two years	$3,730,000[1]

1. Estimate is 5% of the estimated cost to construct the 95th Street Bridge, and Greenwich Road/95th Street Parkway

2.1.2. Upgrade or replace four roadway bridges in the plan area

Rationale

Sedgwick County maintains seven bridges within the plan area. Four of the bridges will need upgrades or replacement within the next 20 years. To ensure the plan area is served by high quality infrastructure, it is recommended that all three local governments make upgrades or replacement of these bridges a high priority for Sedgwick County. The table below shows the conditions information and ID for each of the bridges, a map of the locations is on the following page.

ID	Conditions Rating	Year Built	Years of Use Remaining	Deck Width
644334041	74	1950	10	18
644342859	88	1950	10	32
642333615	73	1960	20	30
642344524	71	1950	20	30
640344698	88	1977	25	34
640321680	100	1993	40	28
642341000	99	1985	40	28

Source: Sedgwick County Public Works

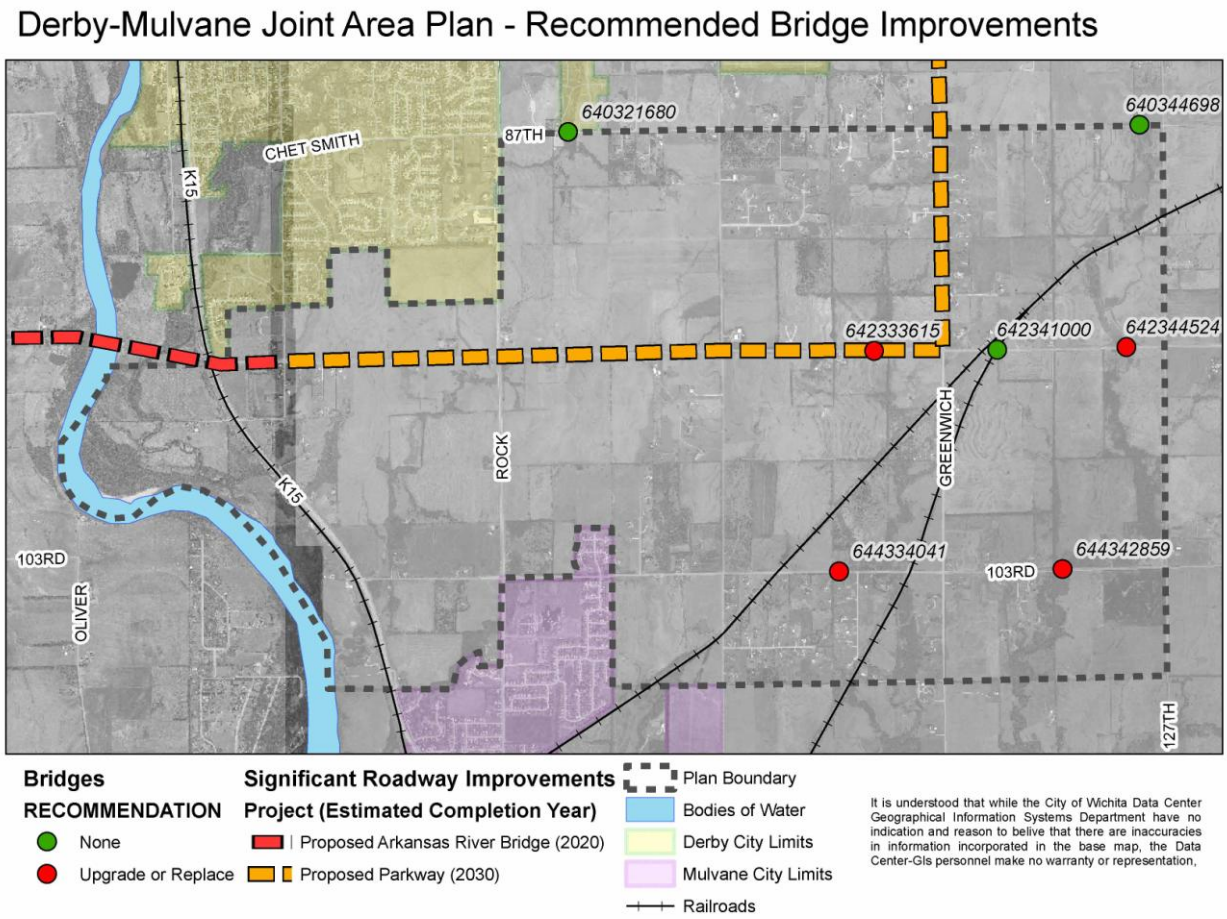
According to Sedgwick County Public Works records, the following two bridges will require replacement or substantial upgrades within 10 years:

- ID 644334041 located west of the intersection of Ellen Street and 103rd Street South; and
- ID 644342859 located west of the intersection of the Dog Creek and I03rd Street South

According to Sedgwick County Public Works records, the following two bridges will require replacement or substantial upgrades within 20 years:

- ID 642333615 located west of the intersection of Greenwich Road and 95th Street South; and
- ID 642344524 located at the intersection of Dog Creek and 95th Street South.

Map 6: Recommended Bridge Improvements



Actions

Action	Lead Organization	Estimated Time to Complete	Cost Estimates
Encourage the County to adopt a capital improvement program with projects to upgrade or replace bridges 644334041 and 644342859 within the next 10 years	Sedgwick County, County Commission	One year	None
Upgrade or replace bridges 644334041 and 644342859 within the next 10 years	Sedgwick County, Public Works	One year	$625,000[2]
Encourage the County to adopt a capital improvement program with projects to upgrade or replace bridges	Sedgwick County, County Commission	One year	None

[2] Source: Sedgwick County Public Works, email sent 2/1/2010

642333615and 642344524 within the next 20 years			
Upgrade or replace bridges 642333615and 642344524 within the next 20 years	Sedgwick County, Public Works	One year	$825,000[3]

[3] Source: Sedgwick County Public Works, email sent 2/1/2010

2.2.1. Design and construct the bicycle connections along Rock Road and the Arkansas River

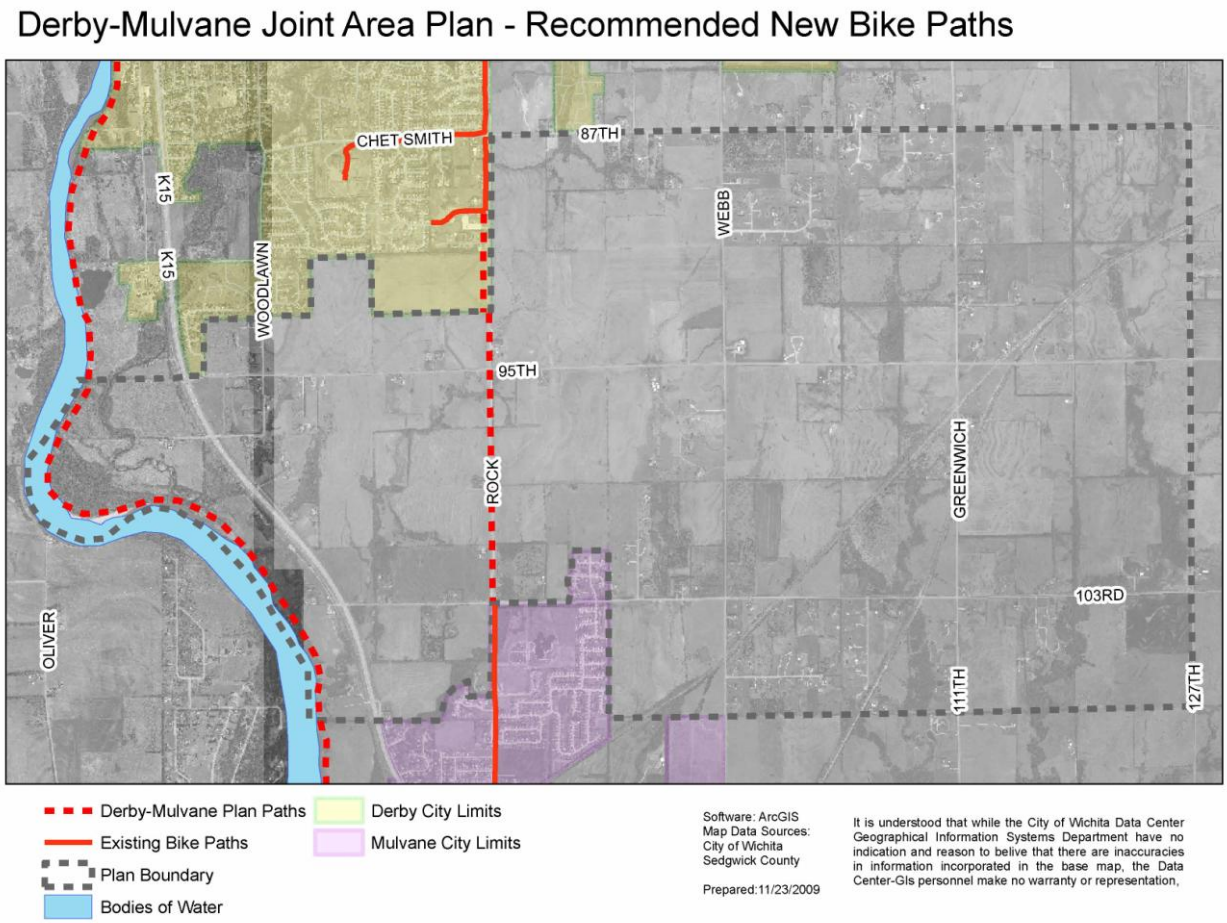
Rationale

In order to maintain and enhance transportation within and through the plan area, it is recommended that bicycle facilities be constructed to connect Derby and Mulvane. The recommended connections are listed below in order of priority.

1. Rock Road Bike Path- a paved, separated path facility connecting the Derby and Mulvane bicycle networks

2. Arkansas River Trail -a crushed limestone trail traveling along the east bank of the Arkansas River, connecting Derby and Mulvane

Map 7: Recommended Bike Paths



Many local government plans identify the need for bicycle facilities and their proposed locations in the plan area. Below is a listing of the plans and a short summary of locations within the plan area.

- The 2005 Derby Comprehensive Plan identifies proposed hike and bike trails along both Rock Road and Greenwich Road. The plan also identifies a proposed regional trail along the Arkansas River.
- The2003 Mulvane Park System and Open Space Plan identifies proposed greenways for walking and cycling along Rock Road ¼ mile north of 103rd Street South, and along the Arkansas River.
- The Sedgwick County 1996 Parks and Pathways Plan identifies proposed pathways (bicycle facility) along both sides of the Arkansas River from Wichita to the south Sedgwick County line.
- The 2007 WAMPO Pathways Plan identifies a proposed Community Connection bicycle facility between Derby and Mulvane as a side path along Rock Road between Woodbrook Lane and 103rd Street South.

The Arkansas River trail would occur along the east bank of the Arkansas River. The Arkansas River is classified as a navigable stream, and has special provisions for State ownership of the River to the ordinary high water mark. The Arkansas River Corridor Access Plan (2008) describes the ordinary high water mark as the following:

> .. the bed and banks that are located below the point where permanent woody vegetation thrives. Another "(definition)" is the point where floating debris such as logs and loose vegetation has been deposited at waters edge after high flows. It should be noted that these debris can be found out in the floodplains during large floods. However, the debris lines at ordinary high water will be reestablished during subsequent ordinary high water.

In order to ensure the usability of the any bicycle facilities along the Arkansas River and to avoid frequent flooding, the Arkansas River bike path facility should be developed at higher elevation than the ordinary high water mark, which may require additional rights-of-way or easements for public access.

The following table summarizes the recommended actions to construct the bicycle infrastructure.

Actions

Action	Lead Organization	Estimated Time to Complete	Cost Estimates
Rock Road Bike Path – design of the connection from Woodbrook Lane to 103rd Street South (paved)	Sedgwick County	Less than six months	$64,000[4]
Rock Road Bike Path - apply for TE funding for construction of the connection from Woodbrook Lane to 103rd Street South	Sedgwick County	Less than six months	None
Rock Road Bike Path - construct the bike path from Woodbrook Lane to 103rd Street South (paved)	Sedgwick County	One year	$633,600[5]
Arkansas River Trail – plan and design the trail from Derby to Mulvane, including ROW and connections to the existing Derby and Mulvane bicycle infrastructure networks.	Sedgwick County	One year	$190,200

[4] Calculated as 10% of the construction costs
[5] WAMPO Pathways Plan

3.1.1. Adopt similar or uniform local government stormwater regulations

Rationale

To reduce confusion and to assist those who will develop sites within the plan area, it is recommended that Derby, and Mulvane develop and adopt similar stormwater regulations as those adopted by Sedgwick County. This recommendation does not include a specific degree of similarity that should be achieved.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Adopt a customized version of the stormwater technical guidance manual similar to Derby and Mulvane standards	Sedgwick County	One year	None
Adopt a customized version of the stormwater technical guidance manual similar to Sedgwick County and Mulvane standards	City of Derby	One year	None
Adopt a customized version of the stormwater technical guidance manual similar to Derby and Sedgwick County standards	City of Mulvane	One year	None

3.1.2. Establish and utilize stream setback guidelines and other stormwater best management practices to help encourage responsible development in the 100 year floodplain and to mitigate the negative effects of such development

Rationale

Five creeks and their tributaries travel through the plan area. The properties adjacent to the creeks contain areas that are within the 100 year floodplain (where there is a 1 in 100 annual chance of flooding). It is recommended that Derby, Mulvane and Sedgwick County adopt stream setback guidelines to help encourage responsible development in the 100 year floodplain and to mitigate the negative effects of such development.

In many cases, a stream setback regulation creates a buffer zone between a river, creek, or stream by specifying where construction of buildings and types of infrastructure is not permitted. Stream setback regulations help to avoid future liabilities by ensuring that buildings and other infrastructure are built outside of areas susceptible to flooding. In addition, stream setbacks can also improve water quality, reduce erosion, protect riparian corridors, and provide public access corridors (i.e. bike paths and multi-use trails).

Many communities in Kansas have adopted stream setback regulations. The City of Wichita, Sedgwick County, and City of Derby are working together to develop a stormwater technical guidance manual which provides examples and guidance for methods to help prevent damages due to flooding. The manual includes guidelines for stream setbacks and can be used to develop customized regulations tailored to a community's specific needs.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Adopt a stream setback resolution	Sedgwick County	Less than six months	None
Adopt a stream setback ordinance	City of Derby	Less than six months	None
Adopt a stream setback ordinance	City of Mulvane	Less than six months	None

3.2.1. Update subdivision regulations to require that high-pressure gas transfer pipelines through residential developments be included only within reserves or rights-of-way and not in residential lots.

Rationale

High pressure gas transfer pipelines travel through the plan area. The Steering Committee recommends that Derby and Mulvane update their subdivision regulations to require that high pressure gas transfer pipelines through residential developments be included only within plat reserves and not in residential lots. The purpose of this recommendation is to help prevent individuals from constructing structures above the infrastructure and to make it easier for compliance with safety regulations to be ensured.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Update subdivision regulations to require that high pressure gas transfer lines through residential developments are only included within reserves or rights-of-way	City of Derby	One year	None
Update subdivision regulations to require that high pressure gas transfer lines through residential developments are only included within reserves or rights-of-way	City of Mulvane	One year	None

3.3.1. Identify railroad noise contours and implement strategies to prevent exposure of sensitive uses to excessively loud noises.

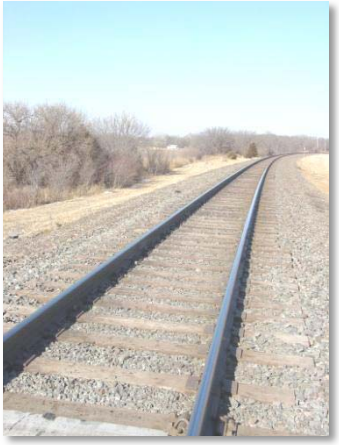
Rationale

Three railroad lines pass through the plan area. According to the WAMPO Railroads Crossing Plan, approximately 31 to 40 trains per day utilize the BNSF Ark City line, while approximately 41 to 50 trains per day utilize the northern branch of the BNSF Emporia line, and more than 50 trains per day utilize the southern branch of the BNSF Emporia line. The amount of train traffic through the plan area is higher than any other area in Sedgwick County. Trains generate high levels of noise, which can impact adjacent land uses. Excessive noise has been shown to negatively impact quality of life, reduce property values, and can even cause physical harm.[6]

The Steering Committee recommends that Sedgwick County, in partnership with Derby and Mulvane, work with noise experts to identify the locations within the plan area where railroads cause excessive noises that can impact sensitive uses. The study, funded by all three organizations, should also identify strategies to prevent excessive noise exposure to sensitive uses. Examples of noise regulations and approaches to protect sensitive uses include the noise assessment and mitigation associated with the McConnell JLUS and the HUD Noise Guidebook.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Partner with Derby and Mulvane to complete a noise study of railroads within the plan area and develop strategies to prevent exposure to sensitive uses	Sedgwick County	One year	Unknown



[6] www.asha.org/public/hearing/disorders/noise.htm

4.1.1. Develop a regional park and recreation plan for the plan area

Rationale

In order to ensure that residents of the plan area have access to high quality recreation resources, it is recommended that Sedgwick County, Derby and Mulvane partner to develop plans for a regional park southwest of the intersection of K-15 and 95th Street South (illustrated on the 2030 Future Land Use Map). The plan, funded by all three entities, should incorporate existing plans for paths and trails; and the Arkansas River Corridor Access Plan. The regional plan could identify the location of future recreation resources, costs, funding, programming, and maintenance.

Actions

Action	Lead Organization	Timeframe	Estimated Costs
Partner with Derby and Mulvane to develop a multi-jurisdictional park and recreation plan for the plan area	Sedgwick County	One year	$60,000

4.1.2. Establish and utilize riparian corridor overlays

Rationale

The plan area includes habitat for four threatened animal species with varying degrees of conservation protection by the State and Federal government: Whooping Crane (bird); Arkansas River Shiner (fish); Least Tern (bird); Arkansas Speckled Chub (fish). As urban development occurs animal habitats are typically lost. Based on a recommendation from the U.S. Fish and Wildlife Service letter, sent May 5, 2009, it is recommended that Derby, Mulvane, and Sedgwick County implement riparian corridor overlays, either incorporated as an element of stream setback regulation or as a separate regulation.

A riparian corridor overlay creates a natural buffer around river, streams, and lakes. The overlay prevents development within the buffer, protecting wildlife habitat and providing corridors for the wildlife movement. The buffers can also help to ensure that development occurs outside of areas prone to flooding; protect vegetation that stabilizes stream banks and slopes; improve water quality by filtering water before it enters waterways; ensure better stream temperature stabilization; and provide room for lateral movement of the stream channel. The riparian corridor overlay can also be designed to include public access including paths and trails.

Actions

Action	Lead Organization	Estimated Time to Complete	Estimated Costs
Adopt a riparian corridor overlay	City of Derby	One year	Unknown
Adopt a riparian corridor overlay	City of Mulvane	2015 One year	Unknown
Encourage Sedgwick County to adopt a riparian corridor overlay	City of Derby	2015 One year	Unknown
Encourage Sedgwick County to adopt a riparian corridor overlay	City of Mulvane	2015 One year	Unknown

4.2.1 Encourage the listing of the "Round Barn" on the National Register of Historic Places

Rationale

The round barn located northwest of the intersection of Woodlawn and 95th Street South is an important historic and cultural resource within the Derby-Mulvane plan area. In early 2010, representatives of the City of Derby and Sedgwick County encouraged the property owners to list the site on the National Register of Historic Places. The historic designation will enable the property owners to access certain financial incentives toward maintenance of the property. The listing will also provide a mechanism to help ensure that any developments around the property respect the historic integrity of the round barn. At this time, no further actions are recommended.

Chapter 4 Critical Path

The following critical path tables are included In order to assist with the implementation of the Derby-Mulvane Joint Area Plan. The critical path tables provide a recommended sequence for initiating the action items contained in the Derby-Mulvane Joint Area Plan. The sequencing of actions implementation can be important because it can reduce costs and save time.

All of the recommended actions within the Derby-Mulvane Joint Area Plan generally fall into one of three broad categories: policy, infrastructure, and non-critical path actions. The tables below are organized according the three action categories and are presented in the recommended sequential order from first to last. Below is a listing of the table columns headers and what they describe.

- Sequential Order – This indicates the recommended sequential order for initiating the action. A letter follows the numeral if one or more actions are recommended to start around the same period of time.
- Strategy – This shows the number of the strategy associated with the action in the Derby-Mulvane Plan document.
- Action – This is the description of the recommended action.
- Lead Organization – This represents the organization responsible for implementing the action.
- Estimated Time to Complete – This is a rough estimate of the duration of time between the start and completion of the action.
- Estimated Cost – This is a rough cost estimate of costs associated with the action. Sources for the costs are cited in the Derby-Mulvane Plan. The costs do not account for the lead organization employee staff time or associated supplies.

Policy Actions Critical Path Table

Sequential Order	Strategy	Action	Lead Organization	Estimated Time to Complete	Estimated Costs
1. a.	1.1.1.	Adopt the Derby-Mulvane Joint Area Plan as an element of the City Comprehensive Plan	City of Derby	Less than six months	None
1. b.	1.1.1.	Adopt the Derby-Mulvane Joint Area Plan as an element of the City Comprehensive Plan	City of Mulvane	Less than six months	None
1. c.	1.1.1.	Adopt the Derby-Mulvane Joint Area Plan as an element of the Wichita-Sedgwick County Comprehensive Plan	Sedgwick County, MAPD	Less than six months	None
1.d.	1.1.1.	Encourage the City of Wichita to adopt the Derby-Mulvane Joint Area Plan as an element of the Wichita-Sedgwick County Comprehensive Plan	Sedgwick County, County Commission	Less than six months	None
2.a.	1.1.2.	Endorse a written agreement identifying the future jurisdictional boundaries of Derby and Mulvane	City of Derby	One year	None
2.b.	1.1.2.	Endorse a written agreement identifying the future jurisdictional boundaries of Derby and Mulvane	City of Mulvane	One year	None
3.b.	1.2.1.	Encourage Sedgwick County to Re-zone the plan area, restricting the ability for properties within the plan area to be developed as large-lot residential dwellings smaller than 20 acres	City of Derby	One year	None
3.b.	1.2.1.	Encourage Sedgwick County to Re-zone the plan area, restricting the ability for properties within the plan area to be developed as large-lot residential dwellings smaller than 20 acres	City of Mulvane	One Year	None

4.a.	3.1.1.	Adopt a customized version of the stormwater technical guidance manual similar to Derby and Mulvane standards	Sedgwick County, County Commission	One year	None
4.b.	3.1.1.	Adopt a customized version of the stormwater technical guidance manual similar to Sedgwick County and Mulvane standards	City of Derby	One year	None
4.c.	3.1.1.	Adopt a customized version of the stormwater technical guidance manual similar to Derby and Sedgwick County standards	City of Mulvane	One year	None
5.a.	1.2.2.	Update subdivision regulations to establish urban infrastructure standards for proposed subdivisions	City of Derby	One year	Unknown
5.b.	1.2.2.	Update subdivision regulations to establish urban infrastructure standards for proposed subdivisions	City of Mulvane	One year	Unknown
6.a.	2.1.1.	Update the subdivision regulations to require the appropriate dedication of rights-of-way during the platting process to allow for the construction of the recommended 150 foot wide arterial loop parkway.	City of Derby	One year	None
6.b.	2.1.1.	Update the subdivision regulations to require the appropriate dedication of rights-of-way during the platting process to allow for the construction of the recommended 150 foot wide arterial loop parkway.	City of Mulvane	One year	None
6.c.	3.1.2.	Adopt a stream setback ordinance	Sedgwick County	Less than six months	None
7.a.	3.1.2.	Adopt a stream setback ordinance	City of Derby	Less than six months	None
7.b.	3.1.2.	Adopt a stream setback ordinance	City of Mulvane	Less than six months	None

7.c.	4.1.2.	Adopt a riparian corridor overlay	City of Derby	One year	Unknown
7.d.	4.1.2.	Adopt a riparian corridor overlay	City of Mulvane	2015 One year	Unknown
8.a.	4.1.2.	Encourage Sedgwick County to adopt a riparian corridor overlay	City of Derby	2015 One year	Unknown
8.b.	4.1.2.	Encourage Sedgwick County to adopt a riparian corridor overlay	City of Mulvane	2015 One year	Unknown
9.a.	3.2.1.	Update subdivision regulations to require that high pressure gas transfer lines through residential developments are only included within reserves or rights-of-way	City of Derby	One year	None
9.b.	3.2.1.	Update subdivision regulations to require that high pressure gas transfer lines through residential developments are only included within reserves or rights-of-way	City of Mulvane	One year	None

Infrastructure Actions Critical Path Table

Sequential Order	Strategy	Action	Lead Organization	Estimated Time to Complete	Estimated Costs
1.	2.2.1.	**Rock Road Bike Path** – design of the connection from Woodbrook Lane to 103rd Street South (paved)	Sedgwick County	Less than 6 months	$64,000
2.	2.2.1.	**Rock Road Bike Path** - apply for TE funding for construction of the connection from Woodbrook Lane to 103rd Street South	Sedgwick County	Less than six months	None
3.	2.1.1.	Apply for portions of 95th Street South and Greenwich Road to be classified as arterials on the WAMPO Federal Classification Map	Sedgwick County, Public Works	One year	None
4.	2.1.1.	Perform an engineering concept study for the Arkansas River Bridge, 95th Street, and Greenwich Road parkway improvements	Sedgwick County, Public Works	Two years	$3,730,000
5.	2.2.1.	**Rock Road Bike Path** - construct the bike path from Woodbrook Lane to 103rd Street South (paved)	Sedgwick County	One year	$633,600
6.	2.2.1.	**Arkansas River Bike Path** – plan and design the path from Derby to Mulvane, including ROW and connections to the existing Derby and Mulvane bicycle infrastructure networks.	Sedgwick County	One year	$190,200
7.	4.1.1.	Partner with Derby and Mulvane to develop a multi-jurisdictional park and recreation plan for the plan area	Sedgwick County	One year	$60,000

12.	2.1.2.	Adopt a capital improvement program with projects to upgrade or replace bridges 644334041 and 644342859 within the next 10 years	Sedgwick County, County Commission	One year	None
13.	2.1.2.	Upgrade or replace bridges 644334041 and 644342859 within the next 10 years	Sedgwick County, Public Works	One year	$625,000
14.	2.1.2.	Adopt a capital improvement program with projects to upgrade or replace bridges 642333615 and 642344524 within the next 20 years	Sedgwick County, County Commission	One year	None
15.	2.1.2.	Upgrade or replace bridges 642333615 and 642344524 within the next 20 years (if not completed as part of the 95th Street improvements)	Sedgwick County, Public Works	One year	$825,000

Non-Critical Path Actions Table

Sequential Order	Strategy	Action	Lead Organization	Estimated Time to Complete	Estimated Costs
None	1.1.3.	Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	City of Derby	Annually, two hours	None
None	1.1.3.	Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	City of Mulvane	Annually, two hours	None
None	1.1.3.	Host and/or attend the coordinating meeting for Derby, Mulvane, and Sedgwick County	Sedgwick County, Wichita-Sedgwick County MAPD	Annually, two hours	None
None	1.3.1.	Continue the existing infrastructure payment policies to charge the full costs to developments for non-contiguous extensions of services	City of Derby	None	None
None	1.3.1.	Continue the existing infrastructure payment policies to charge the full costs to developments for non-contiguous extensions of services	City of Mulvane	None	None
None	3.3.1.	Partner with Derby and Mulvane to complete a noise study of railroads within the plan area and develop strategies to prevent exposure to sensitive uses	Sedgwick County, Wichita-Sedgwick County MAPD	One year	Unknown

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: SUB2005-00036 -- Plat of Albert Farm Addition, located on the southeast corner of Central and 151st Street West.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: The site, consisting of 11 lots on 17.8 acres, is located in the County within three miles of Wichita's city limits. The site has been approved for a County zone change (ZON2001-00071) from SF-20 Single-family Residential to LC Limited Commercial, NR Neighborhood Retail, NO Neighborhood Office and SF-5 Single-family Residential. The Albert Farm Community Unit Plan (CUP2001-00044, DP-257) was also approved for the site. The applicant has submitted a CUP Certificate identifying the approved CUP and the special conditions for development on the property.

Analysis: The applicant has submitted City petitions, 100 percent, for sewer and water. The applicant has submitted County petitions, 100 percent, for paving, drainage and signalization improvements. A Certificate of Petitions has been submitted. The applicant has submitted a Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements to establish joint access openings, create cross-lot circulation and provide for maintenance of the proposed reserves.

The plat has been approved by the Metropolitan Area Planning Commission, subject to conditions.

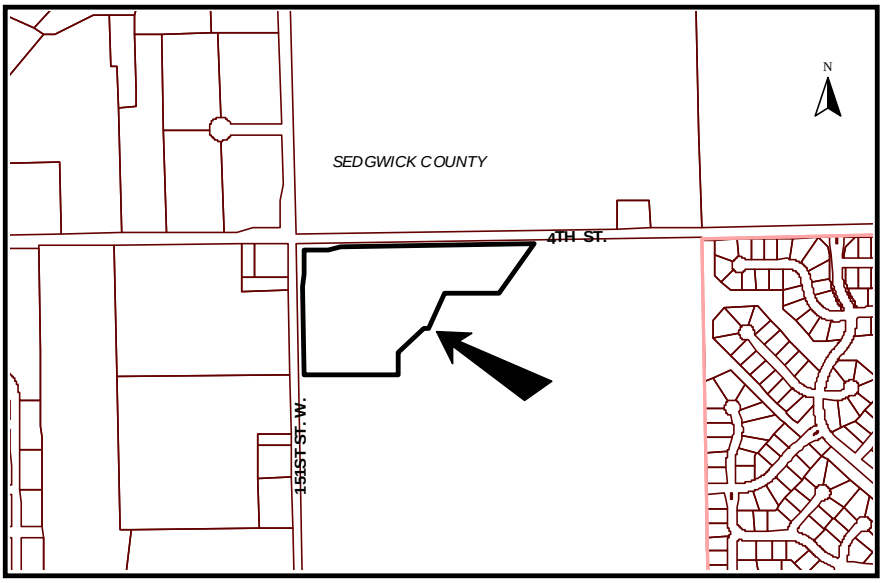
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Notice of Community Unit Plan, Certificate of Petitions and Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements have been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

Attachments: Notice of Community Unit Plan
Certificate of Petitions
Declaration of Covenants, Conditions, Restrictions and Reciprocal Easements


N
SEDGWICK COUNTY
4TH ST.
151ST ST. W.

132019

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-240

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90495 (SOUTH OF CENTRAL, EAST OF 151ST ST. WEST) 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 WATER DISTRIBUTION SYSTEM NUMBER 448-90495 (SOUTH OF CENTRAL, EAST OF 151ST ST. WEST) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Water Distribution System Number 448-90495 (south of Central, east of 151st St. West).

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be One Hundred Four Thousand Dollars ($104,000) exclusive of the cost of interest on borrowed money, with 100 percent of the total cost 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, 2010, 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:

ALBERT FARM ADDITION
Lots 1 thought 11, 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.

> 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 1, ALBERT FARM ADDITION, shall pay 41/100 of the improvement cost; Lot 2, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost; Lot 3, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost, Lot 4, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost; Lot 5, Block 1, ALBERT FARM ADDITION, shall pay 8/100 of the improvement cost; Lot 6, Block 1, ALBERT FARM ADDITION, shall pay 7/100 of the improvement cost; Lot 7, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 8, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 9, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 10, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; and Lot 11, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost.

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 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

132019

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 241

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 6O, COWSKIN INTERCEPTOR SEWER (SOUTH OF CENTRAL, EAST OF 151ST ST. WEST) 468-84702 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 CONSTRUCTING AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 6O, COWSKIN INTERCEPTOR SEWER (SOUTH OF CENTRAL, EAST OF 151ST ST. WEST) 468-84702 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 60, Cowskin Interceptor Sewer (south of Central, East of 151st St. West)) 468-84702.

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 hereof is estimated to be One Hundred Twenty-Eight Thousand Dollars ($128,000), 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, 2010, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of a future sanitary sewer main, such benefit fee to be in the amount of Twenty-Six Thousand Dollars ($26,000).

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:

ALBERT FARM ADDITION
Lots 1 through 11, Bock 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the owners of land liable for assessment shall be on a fractional basis.

That the method of assessment of all costs of the improvement for which the Benefit District shall be liable shall be on a fractional basis: Lot 1, Block 1, ALBERT FARM ADDITION, shall pay 41/100 of the improvement cost: Lot 2, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost; Lot 3, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost; Lot 4, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost; Lot 5, Block 1, ALBERT FARM ADDITION, shall pay 8/100 of the improvement cost; Lot 6, Block 1, ALBERT FARM ADDITION, shall pay 7/100 of the improvement cost; Lot 7, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 8, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 9, Block 1, ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; Lot 10, Block 1,

ALBERT FARM ADDITION, shall pay 5/100 of the improvement cost; and Lot 11, Block 1, ALBERT FARM ADDITION, shall pay 6/100 of the improvement cost.

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 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 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

CERTIFICATE OF PETITION

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

We, the undersigned owners of the following described real property:

Lots 1-11, Block 1, Albert Farm Addition, Sedgwick County, Kansas;

do hereby certify that a petition for the following improvements has been submitted to the City council of the City of Wichita, Kansas:

1. Sanitary Sewer Petitions
2. Water Line Petitions
3. Paving Petitions
4. Drainage Petition
5. Signalization Petition

As a result of the above-mentioned petition for improvements, all lots or portions thereof within the above described real property, may be subject to special assessments assessed thereto for the cost of constructing the above described improvements.

Executed this 14th day of June, 2007

20

Barbara Ann Phillips

Barbara Ann Phillips

STATE OF ~~KANSAS~~ ALABAMA)
) SS
COUNTY OF ~~SEDGWICK~~ SHELBY)

BE IT REMEMBERED, That on this 14th day of June, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Barbara Ann Phillips, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Janice Abucal
Notary Public

My Commission Expires: My commission expires September 1, 2008

Sharon Kay Bruce

Sharon Kay Bruce

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Sharon Kay Bruce, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Donald Allan Albert
Donald Allan Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Donald Allan Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leslie John Albert
Leslie John Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leslie John Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leon Joseph Albert

Leon Joseph Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leon Joseph Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

NOTICE OF COMMUNITY UNIT PLAN

THIS NOTICE made this 14th day of June, 2007, by the undersigned, hereinafter called "Declarants",

WITNESSETH

WHEREAS, Declarants, are the owners of the following described property:

Lots 1-11, Block 1, Albert Farm Addition, Sedgwick County, Kansas

And,

WHEREAS, Declarants desire to provide notice that the property is subject to zoning restrictions.

NOW, THEREFORE, the Declarants hereby give notice that the approved Community Unit Plan (Albert Farm Community Unit Plan # DP-257), on file with the Wichita-Sedgwick County Metropolitan Area Planning Department, has placed restrictions on the use and requirements on the development of the above-described property.

EXECUTED the day and year first written above by:

Barbara Ann Phillips

Barbara Ann Phillips

STATE OF ~~KANSAS~~ ALABAMA
) SS
COUNTY OF ~~SEDGWICK~~ SHELBY)

BE IT REMEMBERED, That on this 14th day of June, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Barbara Ann Phillips, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Janice A Lucas
Notary Public SUB 2005-36

My Commission Expires: My commission expires September 1, 2008

16

Sharon Kay Bruce

Sharon Kay Bruce

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Sharon Kay Bruce, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Donald Allan Albert

Donald Allan Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Donald Allan Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leslie John Albert

Leslie John Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leslie John Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leon Joseph Albert

Leon Joseph Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leon Joseph Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

APPROVED AS TO FORM:

Gary E. Rebenstorf,
Director of Law

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RECIPROCAL EASEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RECIPROCAL EASEMENTS ("Declaration") is made this 14th day of June, 2007, by the undersigned ("Collectively the Declarants").

RECITALS

WHEREAS, Declarants are the owners of that certain real property ("Property") situated in the County of Sedgwick, State of Kansas, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Declarants desire to provide for the orderly development of Property by imposing certain easements upon the Property, and to establish certain covenants, conditions and restrictions with respect to said Property, for the mutual benefit of the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, Declarants hereby covenant and declare that the Property and all present and future owners and occupants of the Property shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that said Property shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant hereto on behalf of itself and its respective successors and assigns covenant and declares follows:

DECLARATIONS

1. Definitions. For purposes hereof:

(a) The term "Owner" shall mean the owner of Property and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.

(b) The term "Common Area" shall mean those portions of Property that are outside of exterior walls of buildings or other structures from time to time located on the Property, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, detention pond, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

(c) The term "Driveways" shall mean those certain driveways and related driveway improvements, paving, curbing, entrances and exits, as currently constructed or as may be constructed on the Property.

(d) The term "Access Opening" shall mean the opening(s) and access point(s) as shown on the recorded plat for Property for any adjacent public roadways for use of the Driveways.

2. Easements.

2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby grants, establishes, covenants and declares that the Property shall be benefited and burdened by the following nonexclusive, perpetual and reciprocal easements which are hereby imposed upon the Property and all present and future Owners of the Property:

(a) An easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways constituting a part of the Common Area of Property including, without limitation, the Driveways, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of Property intended for such purposes, and to and from all abutting streets or rights of way furnishing access to Property via the Access Openings. No walls, fences or barriers of any sort or kind shall be constructed upon the Common Areas of the Property or any portion thereof by any Owners which shall prevent or impair the use or exercise of any easements granted herein or the free access and movement of pedestrian and vehicular traffic between the various Property and between the various Property and any public thoroughfares; provided, however, curb stops and other reasonable traffic controls, including, without limitation, stop signs, directional barriers and parking stops as may be necessary to guide and control the orderly flow of traffic, may be installed so long as Driveways are not closed or blocked and the traffic circulation pattern of the Common Areas is not changed or affected in any material way.

(b) An easement for the parking of vehicles in the parking areas designated as part of the Common Areas of the Property and as the same may be modified or removed from time to time by the Owner upon which the parking areas are located (the "Parking Easement"). The Parking Easement is for customer parking in connection only with the businesses operated from time to time at the Property. In no event shall the Parking Easement be used for delivery or truck parking, overnight parking, storage or other similar parking purposes that shall constitute an unreasonably prolonged use of the Parking Easement. The foregoing notwithstanding, each Owner of the Property if subdivided shall be responsible for independently and separately satisfying any applicable parking requirements under zoning and planning ordinances in effect for each Property.

(c) An easement upon, under, over, above and across the Common Areas of the Property for the discharge, drainage, use, detention and retention of storm water runoff in the manner as shown on the approved drainage plan for the plat of Property on file with the city engineer's office, and to install, maintain, repair and replace storm water collection, retention, detention and distribution lines, conduits, pipes and other apparatus under and across those portions of the Common Areas indicated on the drainage plan.

(d) An easement under and across those parts of the Common Areas that are not within any permissible building areas, for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Areas and each building from time to time located within the Property. All such

systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of the Property except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, which shall be placed in such location as approved by the Owner of the affected Property.

2.2 Reasonable Use of Easements. The easements herein above granted shall be used and enjoyed by each Owner in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner at any time conducted on its Property, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

3. Maintenance.

3.1 Common Area. Owner covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Property in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition; however, should Property be subdivided than each subsequent Owner shall maintain the Common Area on their own respective Property at their own expense.*

3.2 Screen Wall/Landscape Buffers. Owner shall bear the maintenance cost for mowing, watering, repairs, painting, etc., for the maintenance of the screening wall and landscape areas; however, should Property be subdivided than such maintenance expense shall be distributed among all Owners based upon the square footage of each subsequent subdivided Property or ownership.

3.3 Drainage Facilities. Each Owner shall equally share in the cost to operate and maintain, or cause to be operated and maintained, in good order, condition and repair, the drainage facilities located upon the Property and make any and all repairs and replacements that may from time to time be required with respect thereto; however, should each respective Property be subdivided than such maintenance expense shall be distributed among all Owners based upon the square footage of each subsequent subdivided Property or ownership

4. Miscellaneous

4.1 Insurance. Throughout the term of this Declaration, each Owner shall procure and maintain general and/or comprehensive public liability and property damage insurance against claims for personal injury, death, or property damage occurring upon such Owner's Property, with single limit coverage of not less than an aggregate of Five Hundred Thousand Dollars ($500,000.00) including umbrella coverage, if any, and naming each other Owner (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof as additional insureds.

4.2 Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Property.

4.3 No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Property.

* However, access easements as depicted upon the plat of the Property shall be maintained by the owner; provided that, should property be subdivided, than each subsequent Owner shall share in the cost of said platted access easements based on the square footage of each subsequent subdivided Property or Ownership.

4.4 Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the Office of the Register of Deeds of Sedgwick County, Kansas, and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of Property in accordance with the terms contained herein.

4.5 Amendment. This Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Property evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the Office of the Register of Deeds of Sedgwick County, Kansas.

4.6 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives. In no event shall the rights, powers and obligations conferred upon the Owners hereunder be at anytime transferred or assigned by any such Owners other than through a transfer of their respective interests in their respective Property.

IN WITNESS WHEREOF, Declarants have caused this Declaration to be executed effective as of the date first written above.

Barbara Ann Phillips

Barbara Ann Phillips

STATE OF ~~KANSAS~~ ALABAMA)
) SS
COUNTY OF ~~SEDGWICK~~ SHELBY)

BE IT REMEMBERED, That on this 14th day of June, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Barbara Ann Phillips, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Janice A Lucas
Notary Public

My Commission Expires: My commission expires September 1, 2008

Sharon Kay Bruce

Sharon Kay Bruce

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Sharon Kay Bruce, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Donald Allan Albert

Donald Allan Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Donald Allan Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leslie John Albert

Leslie John Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leslie John Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

Leon Joseph Albert

Leon Joseph Albert

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, That on this 31st day of May, 2007, before me, the undersigned, a Notary Public in and for the county and state aforesaid came Leon Joseph Albert, personally known to me and said person has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Rachael Montgomery
Notary Public

My Commission Expires: 10/7/07

RACHAEL MONTGOMERY
Notary Public - State of Kansas
My Appt. Expires 10/7/07

EXHIBIT A

Lots 1-11, Block 1, Albert Farm Addition, Sedgwick County, Kansas

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: SUB2010-00036 -- Plat of Easy Credit Auto 2nd Addition located north of 31st Street South and on the west side of Broadway. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

Background: The site, consisting of one lot on 6.47 acres, is located within Wichita's city limits. The site is zoned GC General Commercial.

Analysis: Water and sewer services are available to serve the site.

The plat has been approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: None.

Recommendations/Actions: Approve the plat and authorize the necessary signatures.

Attachments: None.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council Members

SUBJECT: DED2010-00007 -- Drainage Easement Dedication located on the west side of Seneca and south of 45th Street North. (District VI)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Accept the Dedication.

Background: The Dedication is associated with Lot Split Case No. SUB2009-00071 (USD 259 Addition) and is for construction and maintenance of a drainage system.

Analysis: None.

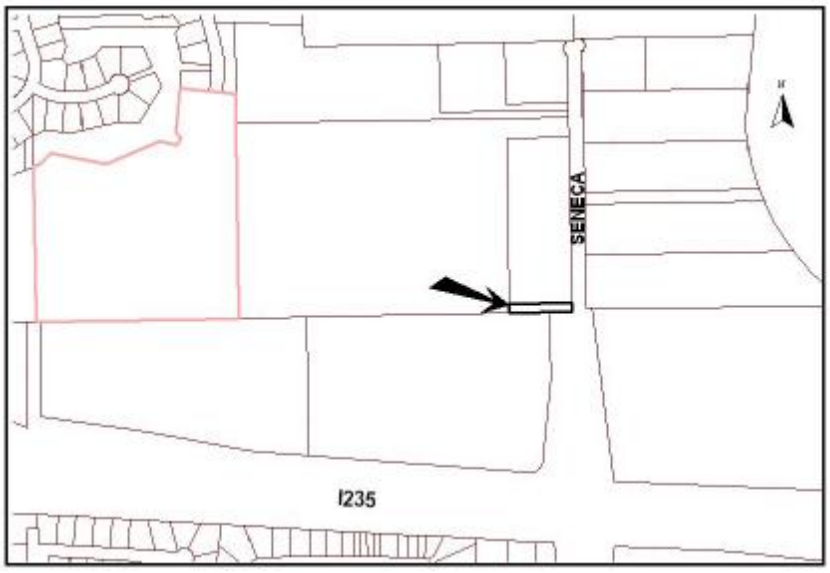
Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Dedication has been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedication.

Attachment: Drainage Dedication.



DRAINAGE EASEMENT

This EASEMENT made this 4th day of August, 2010, by and between Price Transportation, Inc., a Kansas Corporation party of the first part, and the City of Wichita of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar ($1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, repairing and accessing a drainage system over, along, and under the following-described real estate situated in Sedgwick County, Kansas; to wit:

The south 45 feet of the following:
A portion of Lot 1, Block A, USD 259 Addition, Wichita, Sedgwick County, Kansas described as beginning at the SE corner of said Lot 1; thence N90°00'00"W, along the south line of said Lot 1, 304.80 feet; thence N00°01'16"W, parallel with the west line of said Lot 1, 847.75 feet to a point 100.00 feet normally distant south of the north line of said Lot 1; thence N90°00'00"E parallel with the north line of said Lot 1, 301.52 feet to a point on the east line of said Lot 1; thence S00°14'36"E, along the east line of said Lot 1, 847.76 feet to the point of beginning.

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, repairing, and accessing said drainage system.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first above written.

Price Transportation, Inc.

By: Edward J. Toon
Edward J. Toon, President

DED 2010-07
(SUB 2009-71)
4/5

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, That on this 4th day of August, 2010, before me, a Notary Public, in and for the County and State aforesaid, came Edward J. Toon, as President of Price Transportation, Inc., a Kansas Corporation, personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged to me the execution of the same; for and on behalf and as the act and deed of said corporation.

IN WITNESS WHEREOF, I have set my hand and affixed my seal the day and year last above written.

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-13)

JUDITH M. TERHUNE
Notary Public - State of Kansas
My Appt. Expires 11-7-13

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

Agenda Item No. V-6

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: VAC2010-00014 - Request to vacate a portion of a platted easement; generally located east of I-135 and south of 29th Street North. (District I)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is proposing to vacate/remove the utility function from a platted 20-foot wide utility and maintenance access easement, as recorded on the Heartland Preparedness Addition (recorded on November 16, 2009). Nustar is relocating its existing gas pipeline to property that runs parallel to the subject easement. There are not any utilities located in this portion of the subject easement, except for drainage equipment contained within a platted 50-foot drainage easement which intersects the subject easement. The platted drainage easement will be retained. Because of the retained maintenance access function of the subject easement, Public Works has requested that the relocated pipeline (a) go under the platted 50-foot wide drainage easement to a depth that will not disturb the drainage equipment located in the easement, and (b) be located deep enough that the relocated pipeline will not be impacted by traffic on the remaining maintenance access function of the platted easement. Nustar has complied with these two conditions.

Analysis: The MAPC voted (11-0) 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.

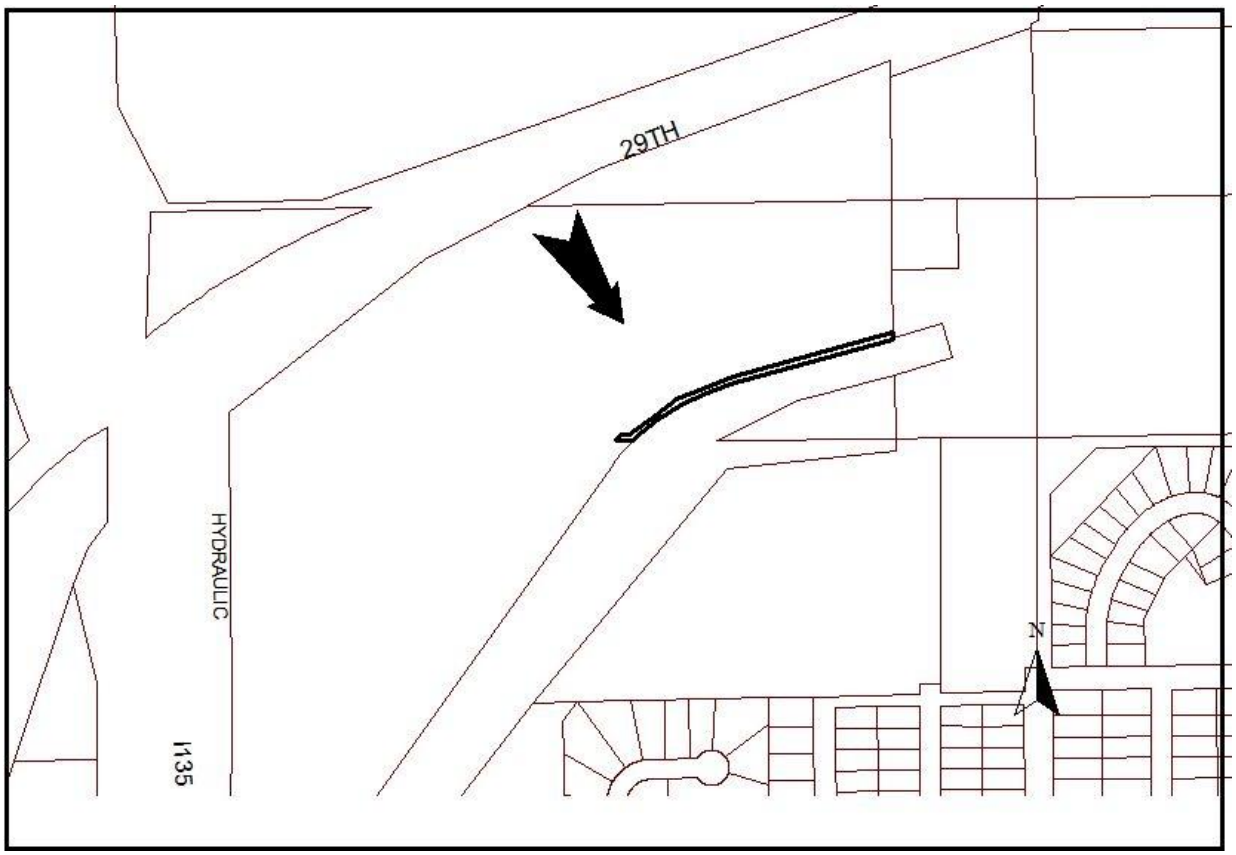
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order has been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Map.


I135
HYDRAULIC
29TH
N

Agenda Item No. V-7

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: VAC2010-00017 - Request to vacate a portion of street right-of-way; generally located along the 29th Street North and Grove Street intersection. (District I)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting the vacation of that portion of Grove Street right-of-way that crosses the railroad right-of-way/tracks. This portion of Grove Street will no longer connect to that portion of 29th Street North that runs parallel to the south side of the tracks; it will dead end at the north side of the tracks. Grove Street currently dead ends at I-135 on its north end. The vacation will make Grove Street a dead end street on both its north and south ends. The vacation will confine Grove Street within the City park, connected to the park's private streets, located on its south side. There are not any utilities located in this street right-of-way. This portion of street right-of-way was recorded in The Road Record Book A, page 118, January 3, 1876, Wichita, Sedgwick County, Kansas. This case is associated with the Heartland Preparedness Center Addition's future development.

Analysis: The MAPC voted (11-0) 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.

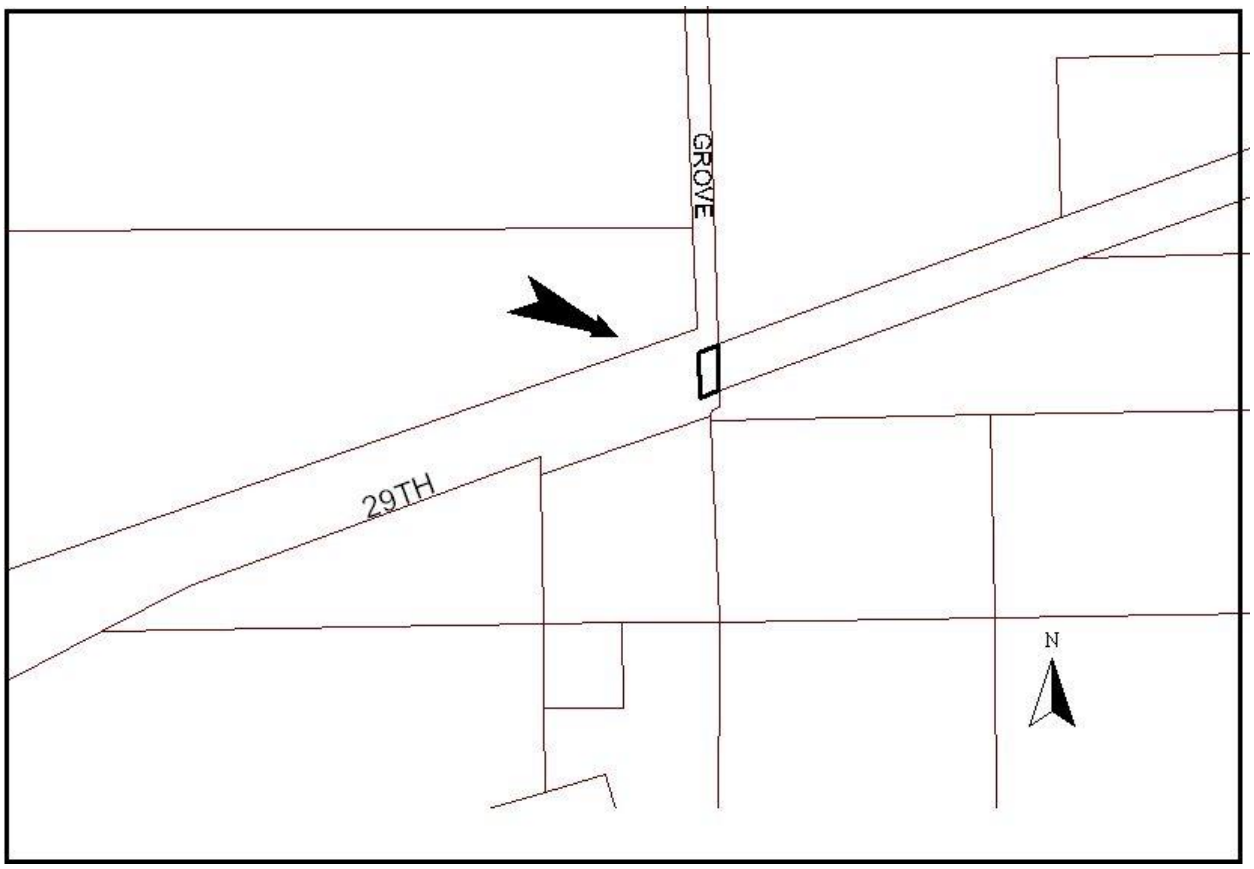
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order has been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.


GROVE
29TH
N

Agenda Item No. V-8

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: VAC2010-00018 - Request to vacate multiple easements and street right-of-way; generally located between 18th and 19th Streets between Poplar and Volutsia Avenues. (District I)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant, USD 259, is requesting the vacation of implied utility easements, as needed, per the plattor's text in the Westmoreland Addition (recorded on March 22, 1910); "The City of Wichita is granted the right to lay sewer, gas, and water lines, underground, and to construct telephone poles on the rear of said lots." The said lots are Lots 5 to 48, Block 2 and Lots 5 to 48, Block 3, Westmoreland Addition. There are no utilities in the subject easements. The applicant is also requesting the vacation of that portion of the 50 foot wide Estelle Avenue right-of-way (ROW) located between 18th and 19th Streets. This portion of Estelle Avenue is not improved and is shown on the County quarter-section map as being "closed." There are no utilities in the ROW. Green Street, located a block west of Estelle, has been vacated between 16th and 19th Streets for a similar expansion of the school; Vacation Ordinance 16-018, September 6, 1944. Lastly, the applicant is requesting vacation of a 20 foot wide drainage easement dedicated by separate instrument; Film 240, Page 1235. There is a 24-inch storm sewer pipe located within this easement, which will be relocated and covered by a new drainage easement dedicated by separate instrument. Public Works has approved the plan for relocation of the storm water pipe. Because the storm water pipe will be relocated on eastern abutting property owned by the Board of Park Commissioners, their signature is needed on the new drainage easement dedicated by separate instrument. The Board of Park Commissioners and Park Department have been part of the process of the relocation of the storm water pipe and will have the drainage easement dedicated by separate instrument on their October agenda for review and signature.

Analysis: The MAPC voted (11-0) 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.

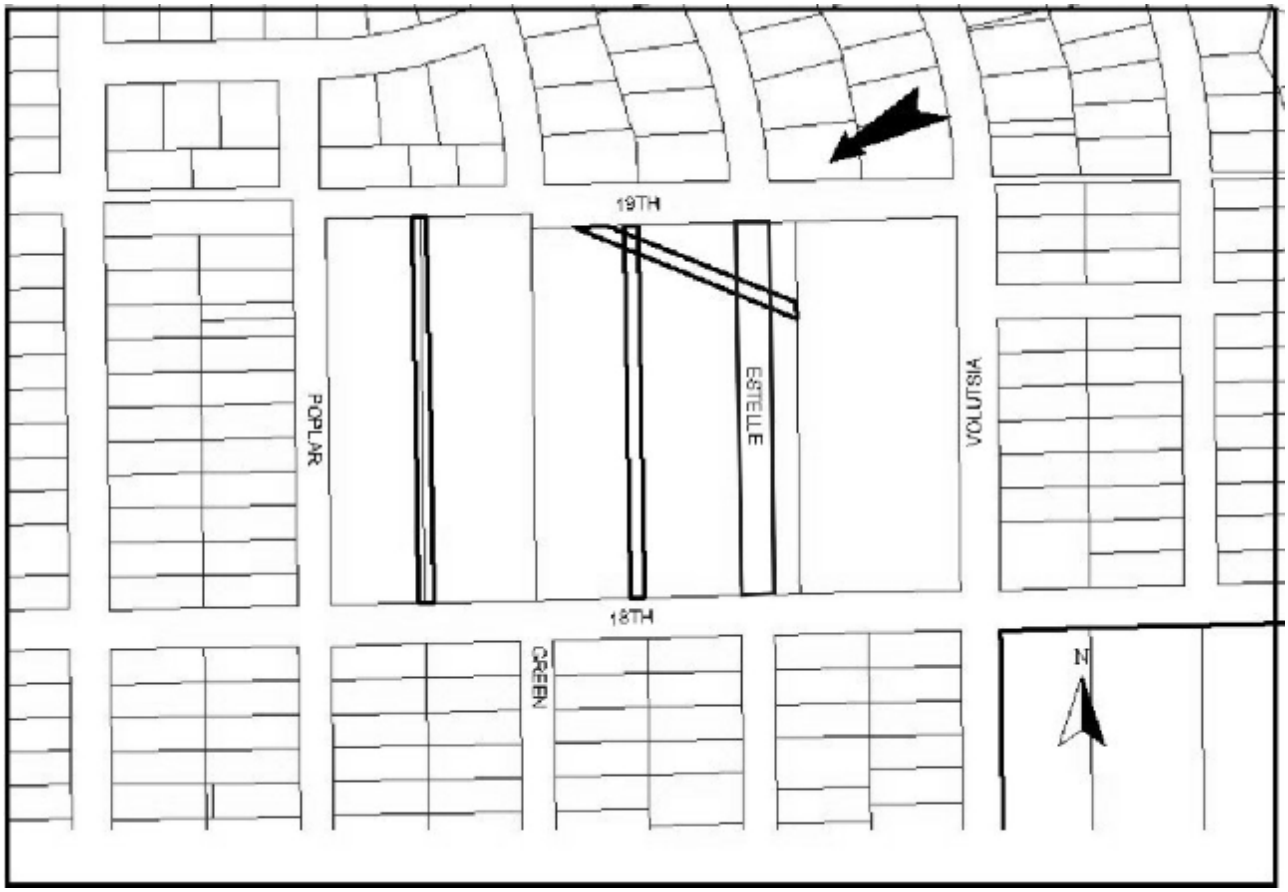
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order has been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Map.


VOLUTSIA
ESTELLE
19TH
POPLAR
18TH
GREEN
N

Agenda Item No. V-9

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: VAC2010-00019 - Request to vacate the plattor's text to amend the uses allowed in a platted reserve; generally located on the south side of 21st Street North, east of 135th Street West. (District V)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve.

Background: The applicant is requesting that the uses allowed in the platted Reserve A, Northwest Main Pump Station Addition be vacated and amended. Currently, the plattor's text states that Reserve A is to be used for "…drainage, landscaping, pedestrian improvements, signage and utilities confined to easements." There is a hydrant, a manhole and sewer line confined to the platted utility easement located in the southwest corner of the platted reserve. The platted reserve is not located within any Federal Emergency Management Agency (FEMA) floodways or flood zones. The applicant requests the vacation to allow construction of a 120-foot lattice communications tower, while retaining the platted reserve's original uses. The tower was considered and approved as Conditional Use request CON2010-29 at the Metropolitan Area Planning Commission's (MAPC) August 5, 2010, meeting. As of the end of the two week protest period (August 19, 2010), following the MAPC's meeting/public hearing, no valid protests were received, thus the recommendation of the MAPC for approval of CON2010-29 is final. The site is located next to a City fire station and a City water treatment and pump station. The Northwest Main Pump Station Addition was recorded with the Register of Deeds on August 30, 2001.

Analysis: The MAPC voted (7-1) 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.

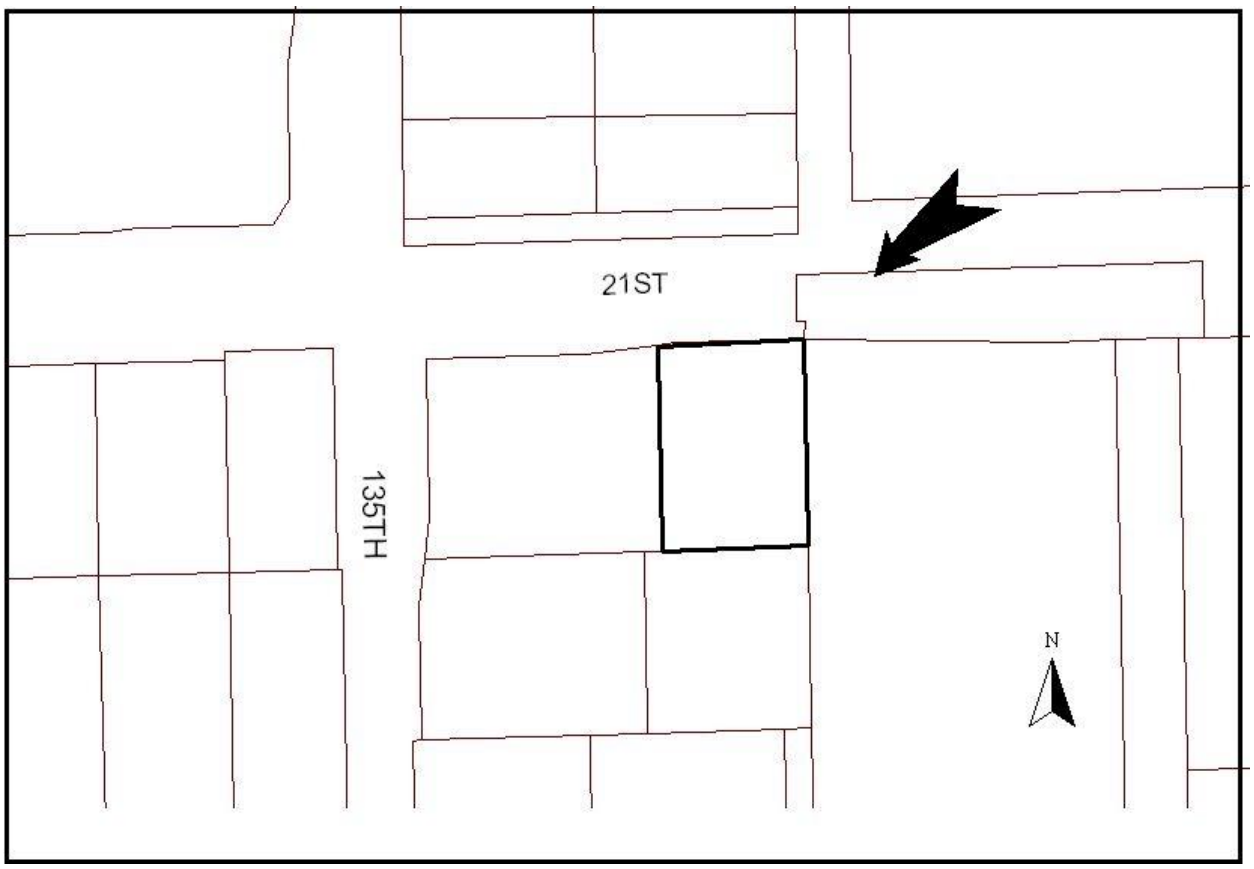
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order has been approved as to form by the Department of Law and will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: Map.


21ST
135TH
N

City of Wichita
City Council Meeting
September 14, 2010

TO: Wichita Airport Authority

SUBJECT: DTG Operations d/b/a Thrifty - Assignment of Agreement
DTG Operations d/b/a Dollar - Assignment of Agreement
Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the assignment of the agreements.

Background: In April 2003, Flacks Enterprises, Limited, d/b/a Thrifty Car Rental, a Missouri corporation, began operations at Wichita Mid-Continent. They operated until December 1, 2007 when DTG Operations d/b/a Thrifty Car Rental, an Oklahoma corporation (Thrifty), assumed the operating agreement. Throughout the term of the agreement, Thrifty has operated at a ticket counter that is shared with EAN Holdings, LLC d/b/a Enterprise Rent-A-Car (Enterprise). Thrifty's and Enterprise's shared space is located near the baggage claim area in the terminal building on Wichita Mid-Continent Airport.

In December 1986, Dollar Systems, Inc. began operations at Wichita Mid-Continent Airport. Dollar operated until March 2006 when E&J Rental & Leasing, Inc. d/b/a Dollar assumed the operating agreement. However, the operating agreement was assumed by DTG Operations d/b/a Dollar Rent A Car, an Oklahoma corporation (Dollar), in December 2007. During the term of the agreement, Dollar's ticket counter space is located in the baggage claim area of the terminal building on Wichita Mid-Continent Airport.

Analysis: Thrifty is desirous of relocating their operations to a location next to Dollar to better serve their customers and alleviate staff hours. Therefore, Thrifty proposes to assign 87 sq. ft., which they are currently using, of ticket counter space to Enterprise. Dollar wishes to assign 87 sq. ft. of ticket counter space to Thrifty. The result from the assignments will allow the relocation of Thrifty next to Dollar as they desire. There will be no changes to the day-to-day operations for any of the parties involved.

Financial Considerations: No impact to the Wichita Airport Authority.

Goal Impact: The Airport's contribution to the Economic Vitality of Wichita is promoted through approval of documents which allow airport businesses to manage/change their operations, while simultaneously allowing them to maintain seamless services to the public.

Legal Considerations: The Assignment of Agreements has been approved as to form by the Law Department.

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

Attachments: Assignment of Agreements.

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Assignment**") is made and entered into effective October 1, 2010, by and between **DTG Operations, Inc.,**, dba Dollar Rent A Car, an Oklahoma corporation ("**Dollar**") and **DTG Operations, Inc.**, dba Thrifty Car Rental, an Oklahoma corporation ("**Thrifty**"), with reference to the following facts:

WHEREAS, the Wichita Airport Authority, Wichita, Kansas, ("Lessor"), which owns and operates the Wichita Mid-Continent Airport, ("Airport") and Dollar Systems, Inc. entered into that certain Agreement for Rent A Car Services at the Airport, dated December 15, 1986, as extended in 1989, in 1994, in 1999 and as supplemented in Supplemental Agreement No. 1 dated March 21, 2006 (collectively the "Airport Agreement") wherein the Lessor granted to E & J Rental & Leasing, Inc., dba Dollar Rent A Car, a Kansas corporation (Licensee") the right to operate a car rental service at the Airport, as more fully described in the document, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Licensee assigned to Dollar and Dollar assumed the Airport Agreement effective December 1, 2007 as part of the Acquisition Agreement dated October 29, 2007 (the "Acquisition Agreement"), pursuant to which Licensee had agreed to sell and Dollar had agreed to purchase certain assets of Licensee and to assume certain liabilities used in the conduct of Licensee's vehicle rental business situated in Wichita, Kansas; and

WHEREAS, Dollar now desires to assign all of its rights, title, interest, obligations and liabilities with respect to the counter and associated office premises, more specifically defined as 87 square feet of counter and office space as allocated and further referenced in the Airport Agreement, Exhibit A ("Premises") to Thrifty and Thrifty desires to assume Dollar's rights, title, interest, obligations and liabilities in the Premises, in accordance with the terms and conditions of this Assignment and Assumption Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Dollar hereby grants, sells, conveys, transfers, assigns and delivers unto Thrifty all of its right, title, interest, obligations and liabilities in and to the Premises, including all claims and rights belonging or appertaining to any of the foregoing, effective October 1, 2010 (the "Effective Date").

2. Assumption. Thrifty hereby accepts the foregoing assignment effective as of the Effective Date and, except as otherwise provided herein, agrees to assume full responsibility for and to faithfully perform or comply with all covenants, terms, stipulations, duties, obligations and conditions contained in the Airport Agreement as it applies to the Premises from and after the Effective Date, including, without limitation, the payment of rent and all other sums due pursuant to the Airport Agreement that are incurred or accrue from and after the Effective Date. Dollar shall remain obligated to fulfill its financial responsibilities under the Lessor for the concession operation fee, ready-car parking spaces, additional monthly rental, insurance, telephone and data services, and all other responsibilities not determined by the quantity or location of counter space allocated to Dollar. This assignment shall not transfer any interest in ready-car parking spaces allocated to Dollar by the Airport Agreement. Thrifty shall not, by this Assignment, assume any duties, contract, agreement, liability or obligation (whether accrued, absolute, contingent, known, unknown or otherwise) that is not expressly included or which arose before the Effective Date.

3. Dollar's Warranties. Dollar hereby covenants with and warrants to Thrifty as follows:

A. Dollar is the lawful owner of the Airport Agreement, free and clear of all liens, claims, collateral or other assignments, subleases and encumbrances of any kind;

B. The Airport Agreement is in full force and effect, and neither Dollar, nor to Dollar's knowledge, the Lessor, the second party under such Airport Agreement, is in breach of or in default under the Airport Agreement as of the Effective Date, nor to Dollar's knowledge does any circumstance exist which would constitute a breach or default under the Airport Agreement upon the service of notice or the passage of time;

C. All rents, fees, reimbursements and other charges due from Dollar under the Airport Agreement have been duly paid through the Effective Date;

D. Dollar, to the best of its knowledge and belief, has not knowingly violated in any material respect any federal, state or local law, ordinance or regulation relating to the Airport Agreement;

E. Dollar has full power and authority to execute this Assignment and to consummate the transactions contemplated hereby, and this Assignment constitutes a legally binding and valid obligation of Dollar enforceable in accordance with its terms; and

F. No tax, mechanics', materialmens' or other liens have attached to, or will attach to, any real or personal property covered by the Airport Agreement due to any act or omission of Dollar through the Effective Date, and all rents, fees, taxes, utility and other operating expenses incurred through the Effective Date with respect to all real and personal property covered by the Airport Agreement have been or will be fully paid by Dollar as they come due.

G. Dollar agrees to indemnify and hold Thrifty harmless from and against any and all loss, injury, damage, liability and obligations of any nature whatsoever arising from the inaccuracy of the covenants and warranties set forth herein. This indemnity shall include all reasonable costs, expenses and liabilities incurred in connection with any claim in the defense thereof.

4. Consent. This Assignment and the transactions contemplated hereby are conditioned and contingent upon the consent of the Lessor, to the extent such consent is required by the terms of the Airport Agreement, and Dollar's receipt of a form of consent acceptable to Dollar. The Lessor hereby consents to this Assignment and Assumption Agreement and to the assignment by Dollar of all matters assumed by Thrifty in Paragraph 2 above.

5. Binding Effect. The terms hereof shall inure to the benefit of Thrifty and their respective successors and assigns and shall be binding upon Licensee and its successors and assigns.

6. Further Assurances. The parties shall without further consideration execute and deliver such instruments and give such further written assurances as may be reasonably requested by any other party to carry into effect the transactions contemplated hereby.

7. Amendment. This Assignment may not be amended except by an instrument in writing executed by each of the parties hereto.

8. Entire Agreement. This Assignment constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder except as otherwise expressly provided herein.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed on the 14th day of September, 2010 to be effective 1st day of October, 2010.

Attest

_____

"Dollar"
DTG Operations, Inc.
dba Dollar Rent A Car

By: _____
Name: Vicki J. Vaniman
Its: Executive Vice President

Attest

_____

"Thrifty"
DTG Operations, Inc.
dba Thirfty Car Rental

By: _____
R. Scott Anderson
President

ATTEST:

By: _____
Karen Sublett, City Clerk

By: _____
Victor D. White, Director of Airports

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Carl Brewer, President
"Authority"

EXHIBIT A
to
Assignment and Assumption Agreement

AGREEMENT FOR RENT A CAR SERVICES

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Assignment**") is made and entered into effective October 1, 2010, by and between **DTG Operations, Inc.,**, dba Thrifty Car Rental, an Oklahoma corporation ("**Thrifty**") and **EAN Holdings, LLC,** dba Enterprise Rent-A-Car, formerly known as Enterprise Leasing Company Southwest **("Enterprise**"), with reference to the following facts:

WHEREAS, the Wichita Airport Authority, Wichita, Kansas, ("Lessor"), which owns and operates the Wichita Mid-Continent Airport, ("Airport") and Flacks Enterprises, Limited, a Missouri corporation, dba Thrifty Car Rental ("Licensee") entered into that certain Agreement for Rent A Car Services at the Airport, dated April 15, 2003, as amended by Supplemental Agreement No. 1 dated March 21, 2006 (collectively the "Airport Agreement") wherein the Lessor granted to Licensee the right to operate a car rental service at the Airport, as more fully described in the document, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Licensee assigned to Thrifty and Thrifty assumed the Airport Agreement effective December 1, 2007 as part of the Acquisition Agreement dated September 28, 2007 (the "Acquisition Agreement"), pursuant to which Licensee had agreed to sell and Thrifty had agreed to purchase certain assets of Licensee and to assume certain liabilities used in the conduct of Licensee's vehicle rental business situated in Wichita, Kansas; and

WHEREAS, Thrifty now desires to assign all of its rights, title, interest, obligations and liabilities with respect to the counter and associated office premises, more specifically defined as 87 square feet of counter as allocated and further referenced in the Airport Agreement, Exhibit A ("Premises") to Enterprise and Enterprise desires to assume Thrifty's rights, title, interest, obligations and liabilities in the Premises, in accordance with the terms and conditions of this Assignment and Assumption Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Thrifty hereby grants, sells, conveys, transfers, assigns and delivers unto Enterprise all of its right, title, interest, obligations and liabilities in and to the Premises, including all claims and rights belonging or appertaining to any of the foregoing, effective October 1, 2010 (the "Effective Date").

2. Assumption. Enterprise hereby accepts the foregoing assignment effective as of the Effective Date and, except as otherwise provided herein, agrees to assume full responsibility for and to faithfully perform or comply with all covenants, terms, stipulations, duties, obligations and conditions contained in the Airport Agreement as it applies to the Premises from and after the Effective Date, including, without limitation, the payment of rent and all other sums due pursuant to the Airport Agreement that are incurred or accrue from and after the Effective Date. Thrifty shall remain obligated to fulfill its financial responsibilities under

the Lessor for the concession operation fee, ready-car parking spaces, additional monthly rental, insurance, telephone and data services, and all other responsibilities not determined by the quantity or location of counter space allocated to Thrifty. This assignment shall not transfer any interest in ready-car parking spaces allocated to Thrifty by the Airport Agreement. Enterprise shall not, by this Assignment, assume any duties, contract, agreement, liability or obligation (whether accrued, absolute, contingent, known, unknown or otherwise) that is not expressly included or which arose before the Effective Date.

3. Contingency. Notwithstanding the foregoing, this Assignment is conditioned and contingent upon Lessor approving and consenting to Thrifty's moving into and sharing the current counter occupied by DTG Operations, Inc., dba Dollar Rent A Car. If this does not occur, this Assignment is null and void.

4. Thrifty's Warranties. Thrifty hereby covenants with and warrants to Enterprise as follows:

A. Thrifty is the lawful owner of the Airport Agreement, free and clear of all liens, claims, collateral or other assignments, subleases and encumbrances of any kind;

B. The Airport Agreement is in full force and effect, and neither Thrifty, nor to Thrifty's knowledge, the Lessor, the second party under such Airport Agreement, is in breach of or in default under the Airport Agreement as of the Effective Date, nor to Thrifty's knowledge does any circumstance exist which would constitute a breach or default under the Airport Agreement upon the service of notice or the passage of time;

C. All rents, fees, reimbursements and other charges due from Thrifty under the Airport Agreement have been duly paid through the Effective Date;

D. Thrifty, to the best of its knowledge and belief, has not knowingly violated in any material respect any federal, state or local law, ordinance or regulation relating to the Airport Agreement;

E. Thrifty has full power and authority to execute this Assignment and to consummate the transactions contemplated hereby, and this Assignment constitutes a legally binding and valid obligation of Thrifty enforceable in accordance with its terms; and

F. No tax, mechanics', materialmens' or other liens have attached to, or will attach to, any real or personal property covered by the Airport Agreement due to any act or omission of Thrifty through the Effective Date, and all rents, fees, taxes, utility and other operating expenses incurred through the Effective Date with respect to all real and personal property covered by the Airport Agreement have been or will be fully paid by Thrifty as they come due.

G. Thrifty agrees to indemnify and hold Enterprise harmless from and against any and all loss, injury, damage, liability and obligations of any nature whatsoever arising from the inaccuracy of the covenants and warranties set forth herein. This indemnity shall include all reasonable costs, expenses and liabilities incurred in connection with any claim in the defense thereof.

5. Consent. This Assignment and the transactions contemplated hereby are conditioned and contingent upon the consent of the Lessor, to the extent such consent is required by the terms of the Airport Agreement, and Enterprise's receipt of a form of consent acceptable to Enterprise. The Lessor hereby consents to this Assignment and Assumption Agreement and to the assignment by Thrifty of all matters assumed by Enterprise in Paragraph 2 above.

6. Binding Effect. The terms hereof shall inure to the benefit of Enterprise and their respective successors and assigns and shall be binding upon Thrifty and its successors and assigns.

7. Further Assurances. The parties shall without further consideration execute and deliver such instruments and give such further written assurances as may be reasonably requested by any other party to carry into effect the transactions contemplated hereby.

8. Amendment. This Assignment may not be amended except by an instrument in writing executed by each of the parties hereto.

9. Entire Agreement. This Assignment constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder except as otherwise expressly provided herein.

[The rest of this page is intentionally left blank.]

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed on the 14th day of September, 2010 to be effective 1st day of October, 2010.

Attest

_____

"Thrifty"
DTG Operations, Inc.
dba Thrifty Car Rental

By: _____
Name: R. Scott Anderson
Its: President

Attest

_____

"Enterprise"
EAN Holdings, LLC
dba Enterprise Rent-A-Car

By: _____
Anthony J. Halas
Regional Vice President

ATTEST:

By: _____
Karen Sublett, City Clerk

By: _____
Victor D. White, Director of Airports

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By: _____
Carl Brewer, President
"Authority"

EXHIBIT A
to
Assignment and Assumption Agreement

AGREEMENT FOR RENT A CAR SERVICES

04/15/03

AGREEMENT

By and Between

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

and

FLACKS ENTERPRISES, LTD
d/b/a THRIFTY CAR RENTAL

for

Rent A Car Services
Wichita Mid-Continent Airport

THIS AGREEMENT, made and entered into this April 15, 2003, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the "LESSOR"; and FLACKS ENTERPRISES, LTD D/B/A THRIFTY CAR RENTAL, a corporation organized and existing under and by virtue of the laws of the State of Missouri, hereinafter referred to as the "LESSEE".

WITNESSETH:

WHEREAS, the Lessor owns and operates the Wichita Mid-Continent Airport; and

WHEREAS, the Lessor has determined that a public necessity exists for car rental service to serve the patrons and air travelers arriving at and departing from said Airport; and

WHEREAS, the Lessor has determined that Lessee's service, together with other rent-a-car agencies operating on the Wichita Mid-Continent Airport, serve a public need;

Rec'd 5/26/03

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter contained, the parties agree, for themselves and their successors and assigns, as follows:

1.

Operating Rights

Subject to the conditions, covenants and terms of this agreement, the Lessor hereby grants to the Lessee the right and privilege to operate a car rental service at said Airport. It is expressly understood and agreed that the scope of the service rendered under this agreement shall be limited to the renting of cars and automobiles and the offering of Personal Accident Insurance for the benefit of drivers and passengers of the rented automobiles, provided said insurance is offered only as a part of and concurrent with the term of the customer's contract for the use of any automobile (but such right shall not include the right to offer so-called flight insurance). This shall not be construed to be an exclusive concession, and the Lessor shall have the right to deal with and perfect arrangements with any other individual, firm or corporation for engaging in like activity at the Airport; provided, however, that no such arrangement shall contain any terms or conditions, including financial, which are more favorable to such other concessionaire than those granted to Lessee, including by way of enumeration, but not by way of limitation, the same guaranteed annual minimum, concession fee and space rental rates.

Provided further, however, that notwithstanding anything herein contained, the Lessor may make such reasonable distinctions with respect to the assignment and allocation of rental counter space and ready car and check-in areas as it deems justified by the different operational requirements of the respective automobile rental business transacted by each Lessee.

2.

Term

The term of this Agreement shall commence May 1, 2003, and terminate November 30, 2004.

3.

Preferential Use Premises

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for Preferential Use Premises as follows:

During the term of this contract the rate per square foot shall be equal to the rate paid by the airlines for ticket counter space. Lessee shall have the use of 48 square feet for counter purposes as shown on Exhibit "A", attached hereto and made a part hereof. The rental rate through November 30, 2003 shall be Thirty Six Dollars and Fifty Nine Cents ($36.59) per square foot for a monthly amount of One Hundred Forty-six Dollars and Thirty-six Cents ($146.36). This rate shall be adjusted December 1, 2003.

It is further understood and agreed that Lessor reserves the right to cause the relocation of rental car counters in the event of Terminal Building modification or expansion, or redesign of the Baggage Claim facilities.

4.

Ready-Car Parking

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for Ready-Car Parking spaces which shall be assigned by Lessor as shown on Exhibit "B", attached hereto and made a part hereof.

The rental charge for Ready-Car Parking spaces shall be One Thousand Four Hundred Forty Dollars ($1,440) per year, making the monthly amount due One Hundred Twenty Dollars ($120) (ten spaces @ $12 per month).

It is understood and agreed that Lessor reserves the right to temporarily or permanently relocate Ready-Car Parking space as may be required due to construction or reconstruction of Airport facilities, and in this event, Lessor agrees to furnish the same number of parking spaces.

5.

Considera-tion

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for minimum consideration.

a) The minimum consideration which the Lessee shall pay to the Lessor for the rights and privileges herein granted, in addition to space rentals previously provided for, shall be the sum of TWO THOUSAND DOLLARS ($2,000), each month during the term of this Agreement.

b) It is further understood and agreed that this monthly payment shall be based on TWENTY THOUSAND ($20,000), or ten percent (10%) of the gross monthly receipts, whichever is greater.

Gross Receipts Defined

c) "Definition of Gross Sales" – Gross Receipts shall be defined as the gross revenue received for time and mileage charges for the rental of automobiles by the Lessee at the Airport, and shall include premiums collected by Lessee from the sale of Personal Accident Insurance. "Gross receipts", as used in this Agreement, shall be defined further as the time and mileage charges by the Lessee for renting automobiles from the Airport station to air travelers arriving at the Wichita Mid-Continent Airport, or from short term (transient) rentals made to any employee or operator on the Airport, or from rentals originating at the Wichita Mid-Continent Airport, or made to air travelers where the rental shall be diverted by the Lessee from the Airport station to any other location.

d) In the event said gross monthly billings in any month exceed the sum of TWENTY THOUSAND DOLLARS ($20,000), then an additional monthly rental shall be paid to the Lessor based on the ten percent (10%) of all said billings above said TWENTY THOUSAND DOLLARS ($20,000), and said additional payment shall be made on or before the 15th of the following month.

Late Payment

e) In the event Lessee fails to make payment within ten (10) days of the dates due as set forth in this Agreement, then Lessee shall pay Lessor a monthly service charge equal to

the maximum allowable under state statutes on any such overdue amount, plus reasonable administrative costs and attorneys' fees incurred by Lessor in attempting to obtain payment.

6.

Annual Adjustment & Refund

An annual recapitulation shall be made and the basis of payment shall not be less than TWENTY-FOUR THOUSAND DOLLARS ($24,000), or ten percent (10%) of the gross annual receipts as specified, whichever is the greater, during the term of this Agreement. In the event that the payments by the Lessee exceed the above amount, the Lessor agrees to refund such excess or credit the excess against future payments.

7.

Lessee's Equipment And Personnel

Lessee shall provide a fleet of standard make cars in order to supply customers' demands. All such cars are to be new or late model cars, maintained in good appearance and operating condition. Lessee agrees that it shall provide a high standard of personnel and performance consistent with good customer relations.

8.

Assignment

This Agreement may not be assigned or transferred by Lessee, except with the written consent of Lessor.

9.

Hold Harmless

Lessee shall keep and hold harmless Lessor and the City of Wichita from and against all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor or Lessee, by reason of death or injury to persons, or loss or damage to property, resulting from Lessee's operations hereunder or as the result of anything done or omitted by Lessee hereunder, except to the extent that such claims, demands, suites, judgments, costs and expenses may be attributed to the acts or omissions of the Lessor or its agents or employees.

10.

Independent Contractor

Lessee shall at all times be regarded as an independent contractor, and shall not at any time act as agent for Lessor.

11.

Liability Insurance

Lessee further agrees that it shall, at its cost and expense, carry and keep in force general liability insurance with an insurer authorized to do business in the State of Kansas, and to be approved by the Lessor, in the amounts of not less than:

$500,000 for accident to one person;
$1,000,000 for accident to two or more persons;
$500,000 for damage to property.

The Wichita Airport Authority and the City of Wichita, their officers and employees, shall be carried as additional insureds, and a Certificate of Insurance with a thirty (30) day prior cancellation notice endorsement shall be filed with the Lessor.

Automobile Insurance

In addition to the above insurance provisions, the Lessee shall, at its cost and expense, carry and keep in force automobile insurance of not less than:

$100,000 for one person;
$300,000 for two or more persons
$25,000 property damage

such liability insurance to cover the rentees of the automobiles of the Lessee. A Certificate of insurance shall be furnished to the Lessor.

Lessor agrees to notify Lessee in writing as soon as practicable of any claim, demand or action arising out of an occurrence allegedly covered hereunder of which Lessor has knowledge, and to cooperate with Lessee or its agents in the investigation or defense thereof.

12.

Rules and Regulations

Lessee further agrees that all of its officers, agents and employees shall observe and comply with all existing and future rules and regulations issued in connection with the operation of the Airport.

13.

Audit Right

The Lessor or a Certified Public Accountant hired by the Lessor shall have the right to examine and inspect the books of accounts and records of Lessee at Lessee's local office during business hours for the term hereof. If a discrepancy equal to, or greater than three percent (3%) exists between the gross revenues reported by the audit and the Lessee, then the Lessee shall pay the costs of the audit. All amounts found to be in arrears by the audit shall be payable upon notice by Lessor and shall include an interest of One and Seventy Five One Hundredths Percent (1.75%) per month from the date the amount was originally due.

14.

Lessor's Termination Rights

Lessor shall have the right, upon ten (10) days' prior written notice to Lessee, to cancel this agreement in its entirety, upon or after the happening of one or more of the following events:

a) If Lessee shall make a general assignment for the benefit of creditors;

b) If Lessee shall file a voluntary petition in bankruptcy, or a petition seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any similar state laws;

c) If an involuntary petition in bankruptcy shall be filed against Lessee, and Lessee is thereafter adjudicated a bankrupt thereunder;

d) If Lessee shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of the property of Lessee:

e) If Lessee shall voluntarily abandon and discontinue its automobile rental service at the Airport for a period of twenty (20) consecutive days, or if Lessee shall abandon its premises in the Airport for a period of twenty (20) days;

f) The transportation or coercion of prospective clients off airport premises for the purpose of renting vehicles and thereby avoiding payment under the terms of this contract.

g) If Lessee shall fail to pay the rental charges or other money payments required by this instrument and such failure shall not be remedied within ten (10) days following receipt of Lessee of written demand from Lessor to do so; or

h) If Lessee shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it hereunder and shall fail to commence with due diligence the remedying of said default within ten (10) days following the date of notification by Lessor of such default.

In the event of any cancellation or termination of this Agreement by Lessor for any of the reasons specified above, Lessee shall have ten (10) days within which to remove all trade fixtures and personal property installed in or upon the demised premises by Lessee. If said trade fixtures or personal property cannot be removed within ten (10) days after such termination or cancellation, Lessee shall have a reasonable time thereafter within which to complete their removal.

15.

Lessee's Termination Rights

Lessee shall have the right, upon ten (10) days prior written notice to Lessor, to cancel this Agreement in its entirety, upon or after the happening of one or more of the following events, if said event or events shall then be continuing:

a) The issuance by any court of competent jurisdiction of an injunction order or decree preventing or restraining the use by Lessee of all or any substantial part of the demised premises, or preventing or restraining the use of the Airport for normal airport purposes, or the use of any part thereof which may be used by Lessee and which is necessary for Lessee's operations on the Airport, which remains in force for a period of at least ninety (90) days;

b) If Lessor shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it under this Agreement, and shall fail to commence the remedying of said default within ten (10) days following receipt of written demand from Lessee to do so;

c) If all or a material part of the Airport or Airport facilities shall be destroyed by fire, explosion, earthquake, other casualty, riot or civil commotion, or acts of God or the public enemy;

d) If the United States Government or any of its agencies shall occupy the Airport or any substantial part thereof to such an extent as to interfere materially with Lessee's operations for a period of ten (10) consecutive days or more.

16.

Services And Utilities

All service, repair, washing and maintenance of cars, if performed on the Airport, shall be at a location approved by the Director of Airports. Utilities shall be furnished by Lessor for the counter space assigned to Lessee in the Terminal Building, but telephone and data service shall be provided at Lessee's expense.

17.

Care and Maintenance

Lessee shall be responsible for the removal of all ice, snow, trash and debris in the leased rental car area and the abutting drives. Lessee shall also be responsible for all signing, marking and numbering of its leased ready car spaces.

18.

Signs or Advertising

No signs or advertising shall be placed or installed by the Lessee, or its representatives, without written permission from the Lessor. All signs and advertising must be in keeping with the signs and advertising throughout the Terminal Building in general, and must be approved in advance of installation by the Lessor, acting through its authorized agent.

19.

FAA Requirements

Lessor and Lessee further agree that the requirements of the Federal Aviation Administration set out below are approved by both parties, and if applicable, Lessee agrees

to comply with all FAA requirements with respect to its operations, the use of the Airport and this lease.

a) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

b) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

c) The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action programs, and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect.

d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

e) Lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

f) Lessor reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of Lessee in this regard.

g) Lessor reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

h) Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft.

i) During time of war or national emergency Lessor shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

j) It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

k) There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the air space above the surface of the premises herein conveyed, together with the right to cause in

said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on or about the airport.

l) This lease shall become subordinate to provisions of any existing or future agreement between the Lessor and the United States of America or any agency thereof relative to the operation, development or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport

20.

Lessor's Obligations

Lessor hereby covenants and agrees to take all appropriate action within its authority to protect the rights and privileges demised and granted to the automobile rental agency or agencies under this and similar agreements.

21.

Notices

All notices and demands provided for or which may be given by either party to the other under the terms of this Agreement shall be in writing, signed by the party giving the notice or making the demand, and shall be deemed validly served or delivered upon physical delivery or upon deposit in the United States mail, restricted, return receipt requested, postage and registration fees prepaid, addressed as follows:

To Lessor:

Director of Airports
The Wichita Airport Authority
2173 Air Cargo Road
P.O. Box 9130
Wichita, KS 67277-0130

To Lessee:

Flacks Enterprises, Ltd
d/b/a Thrifty Car Rental
2001 Baltimore
Kansas City, MO 64108

or to such other addresses as the addressee may designate by written notice to the other party delivered in accordance with the provisions of this article.

Kansas Law To Govern

22.

This Agreement and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas.

Successors And Assigns

23.

This Agreement shall be binding upon the parties and their successors and assigns.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
By Direction of the City Council

By _____
Pat Graves, City Clerk

By _____
CARLOS MAYANS MAYOR
"LESSOR"

ATTEST:

FLACKS ENTERPRISES, LTD
d/b/a THRIFTY CAR RENTAL

By _____

Title _____

By _____

Title _____
"LESSEE"

APPROVED AS TO FORM: _____ Date: 5/6/03
Director of Law

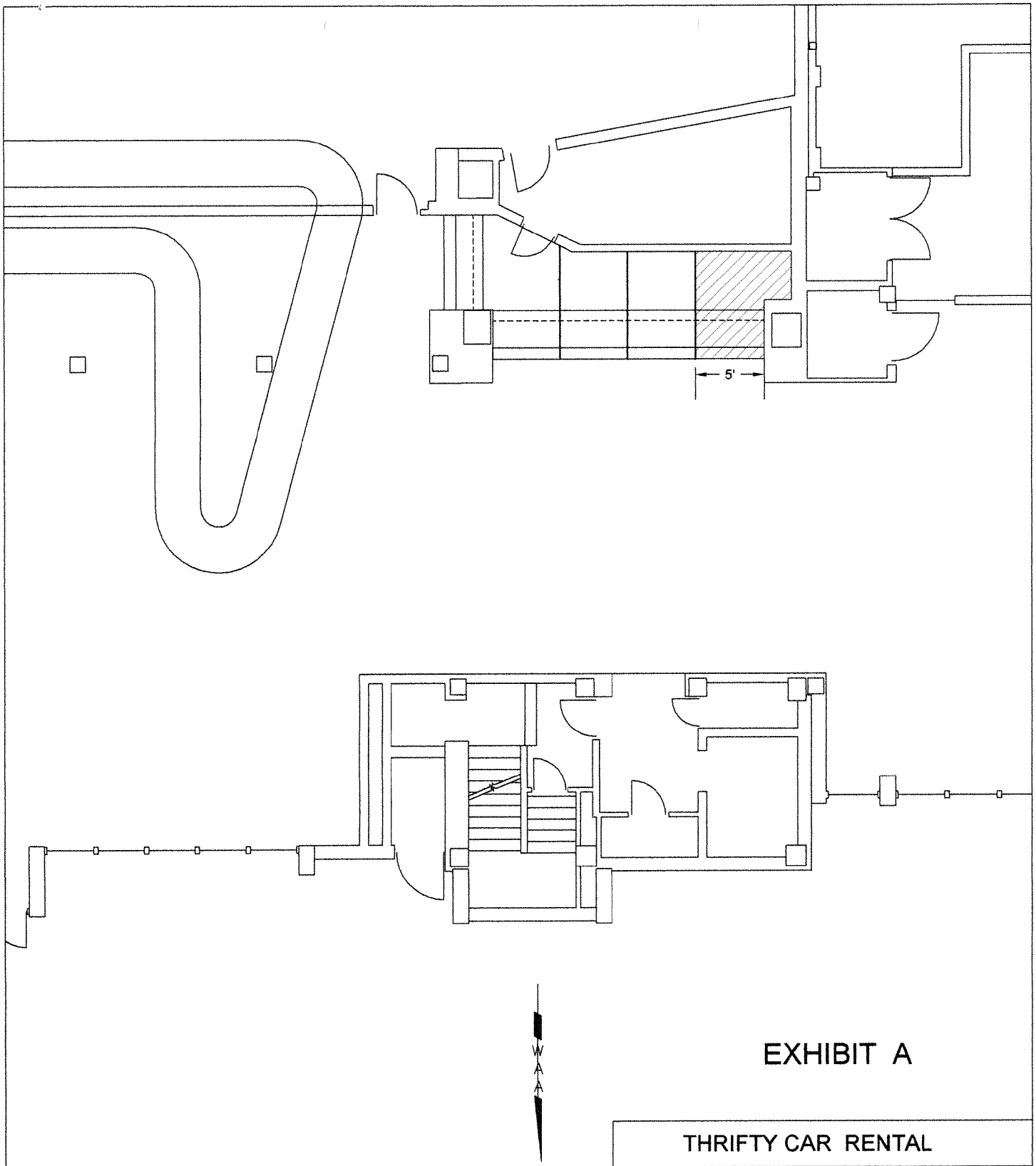
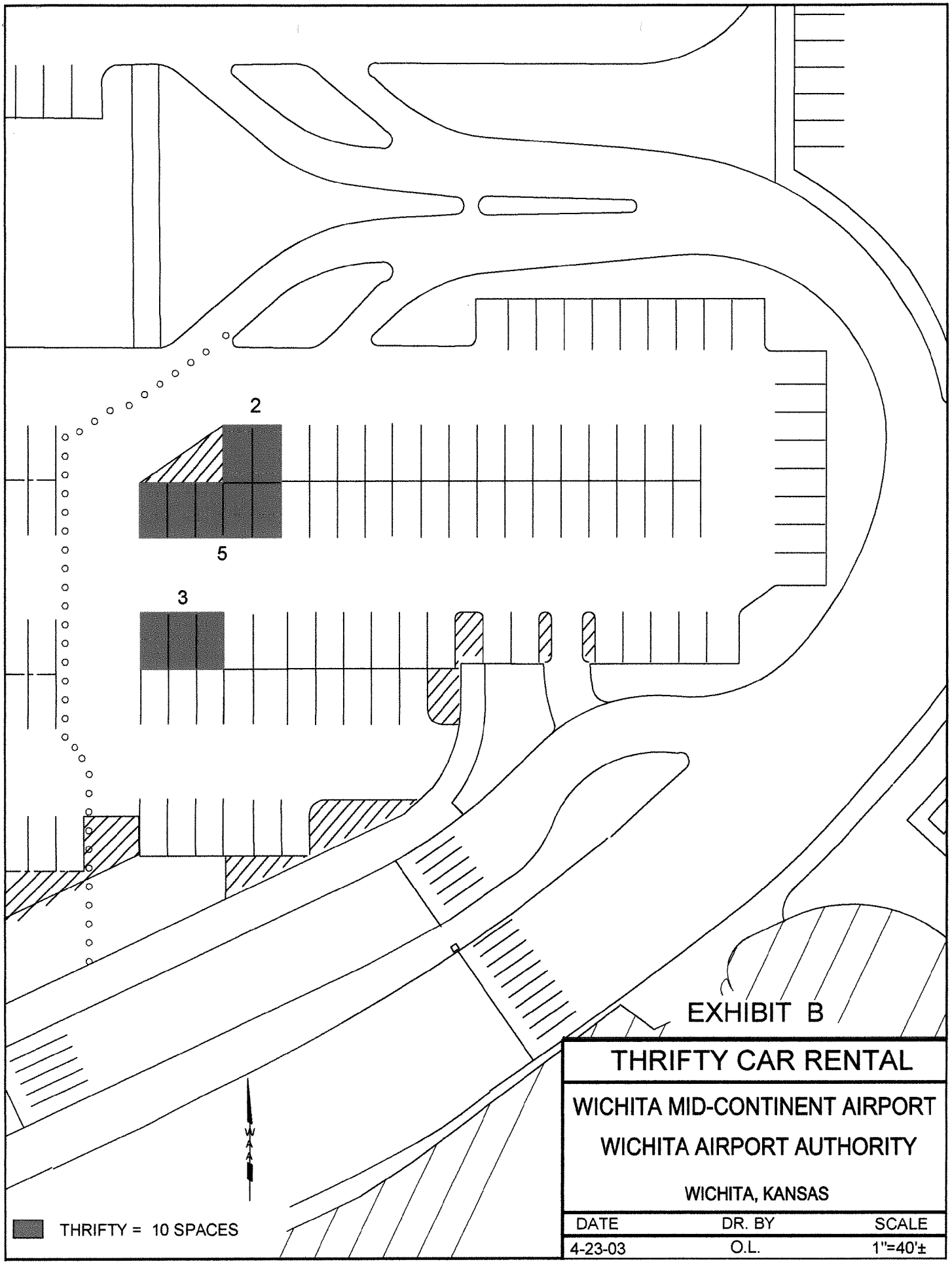


EXHIBIT A

LEASE AREA = 48 S.F.±

THRIFTY CAR RENTAL		
WICHITA MID-CONTINENT AIRPORT THE WICHITA AIRPORT AUTHORITY WICHITA, KANSAS		
DATE	DR. BY	SCALE
4-17-03	O.L.	1" = 10'±


2
5
3
EXHIBIT B
THRIFTY CAR RENTAL
WICHITA MID-CONTINENT AIRPORT
WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
DATE
DR. BY
SCALE
4-23-03
O.L.
1"=40'±
THRIFTY = 10 SPACES

03/21/06

SUPPLEMENTAL AGREEMENT NO. 1

By and Between

THE WICHITA AIRPORT AUTHORITY

And

FLACKS ENTERPRISES, LTD
d/b/a Thrifty Car Rental

For

Rent-A-Car Service
Wichita Mid-Continent Airport

This SUPPLEMENTAL AGREEMENT NO. 1, made and entered into this March 21, 2006 by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and FLACKS ENTERPRISES, LTD d/b/a THRIFTY CAR RENTAL, hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated April 15, 2003 for the purpose of providing car rental services to patrons and air travelers using Wichita Mid-Continent Airport; and

WHEREAS, the parties hereto are now desirous of amending the Agreement for the purpose of extending this concession Agreement; and

WHEREAS, the Wichita Airport Authority is in the process of developing plans for the construction of a new terminal building which will house car rental service agencies; and

WHEREAS, the completion date of the terminal building construction is unknown at this time, necessitating short-term Agreements with the car rental agencies.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1.

Term

The term of this Supplemental Agreement No. 1 shall be for a five-year period commencing December 1, 2004 and terminating November 30, 2009.

2.

New Terminal Building & Renewal Option

It is acknowledged that the process for selecting car rental agencies to occupy the new terminal building has not been determined at the time. As set out in Paragraph 1, the term of the extension shall be through November 30, 2009 and then may be automatically renewed on a month-to-month basis, commencing December 1, 2009, until such time as the process for selection is determined. After December 1, 2009, either party may terminate the Agreement upon providing a thirty-day written notice to the other party.

3.

Annual Adjustment & Refund

During the month-to-month extensions, the annual recapitulation outlined in the original agreement, Paragraph 6, Annual Adjustment and Refund, shall be pro-rated for that portion of the twelve-month period during which the extensions are in effect.

Other Terms

4.

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

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
By direction of the Wichita Airport Authority

By _____
Karen Sublett, City Clerk

By _____
Carlos Mayans, Mayor

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

FLACKS ENTERPRISES, LTD
d/b/a Thrifty Car Rental

By _____

Title _____

By _____

Title _____

"LESSEE"

APPROVED AS TO FORM: _____ Date: 3/15/06
Director of Law

05/02/06

SUPPLEMENTAL AGREEMENT NO. 2

By and Between

THE WICHITA AIRPORT AUTHORITY

And

FLACKS ENTERPRISES, LTD
d/b/a Thrifty Car Rental

For

Rent-A-Car Service
Wichita Mid-Continent Airport

This SUPPLEMENTAL AGREEMENT NO. 2, made and entered into this May 2, 2006 by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and FLACKS ENTERPRISES, LTD d/b/a THRIFTY CAR RENTAL, hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated April 15, 2003 for the purpose of providing car rental services to patrons and air travelers using Wichita Mid-Continent Airport; and Supplemental Agreement No. 2 dated March 21, 2006; and

WHEREAS, the parties hereto are now desirous of amending the Agreement for the purpose of increasing the leased area; and

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1.

Premises

Lessor agrees to lease to Lessee an additional 39 sq. ft. to expand Lessee's current ticket counter area, as reflected on Exhibit "A", attached hereto and made a part hereof.

2.

Consideration

Rental for the additional space shall be retroactive to February 1, 2005. The rental rate through November 30, 2005 is Forty-one Dollars and Ninety-four Cents ($41.94) per square foot for a monthly amount of One Hundred Thirty-six Dollars and Thirty-one Cents ($136.31); and shall be Forty-three Dollars and Sixty-six Cents ($43.66) per square foot for the period December 1, 2005 through November 30, 2006 for a monthly amount of One Hundred Forty-one Dollars and Ninety Cents ($141.90). This rate shall be adjusted December 1, 2006 and every twelve months thereafter through the end of the lease agreement.

3.

Other Terms

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

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
By direction of the Wichita Airport Authority

By _____
Karen Sublett, City Clerk

By _____
Carlos Mayans, Mayor

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

FLACKS ENTERPRISES, LTD
d/b/a Thrifty Car Rental

By _____

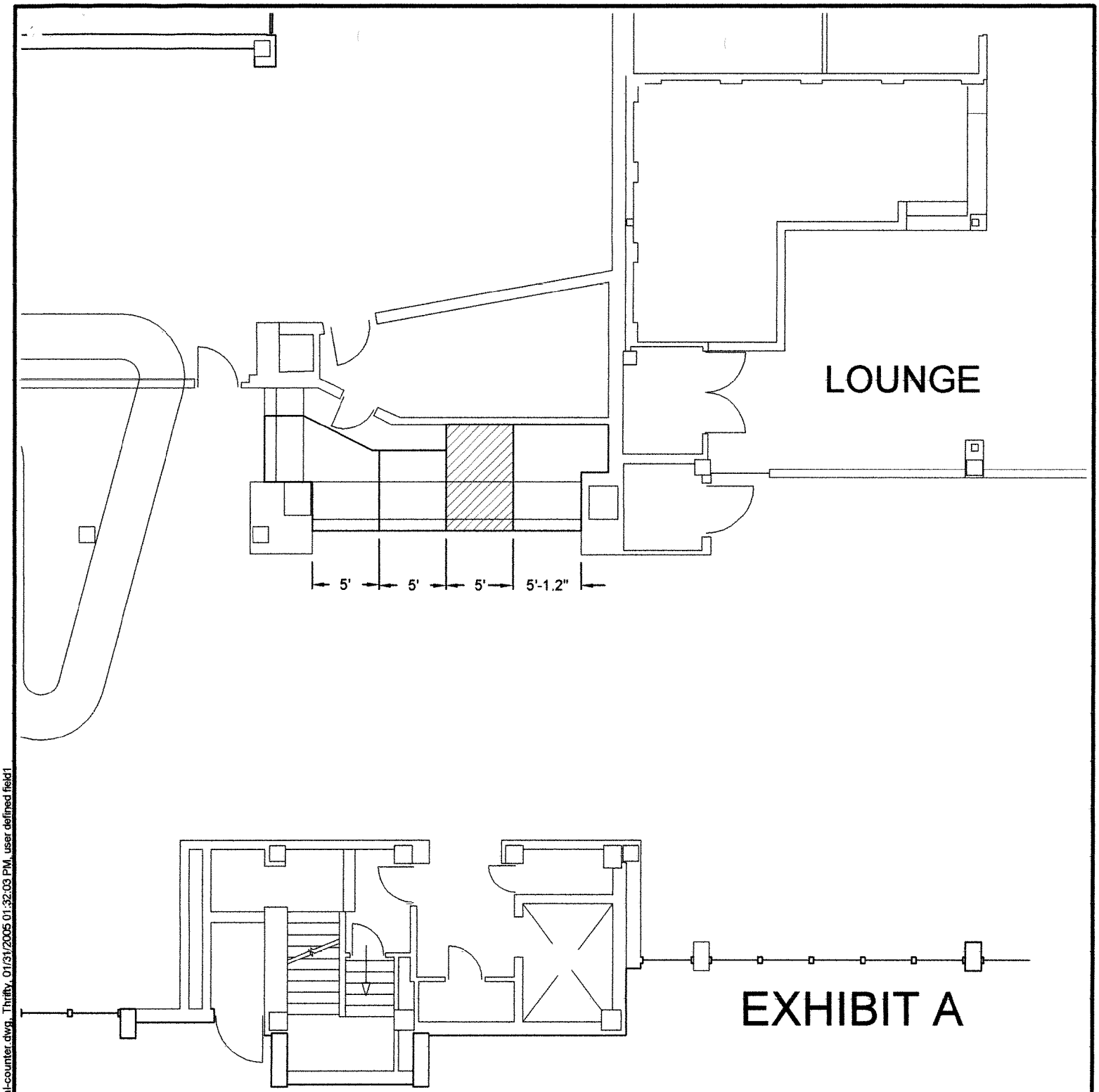
Title Ops Mgr.

By _____

Title President

"LESSEE"

APPROVED AS TO FORM: _____ Date: 4/28/06
Director of Law



LEASE AREA = 39.5 S.F.±

THRIFTY CAR RENTAL			
WICHITA MID-CONTINENT AIRPORT AIRPORT MAP WICHITA, KANSAS			
DATE	DR. BY	SCALE	SHEET
10-26-04	H.G.O.	1"=10'	1 of 1

C:\Drawings\213-Terminal\TERMINAL-BLDG\Car-rental-counter.dwg, Thrifty, 01/31/2005 01:32:03 PM, user defined field1

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Assignment**") is made and entered into effective December 1, 2007, by and between **Flacks Enterprises, Limited, a Missouri corporation**, dba Thrifty Car Rental ("**Licensee**") and **DTG Operations, Inc.**, dba Thrifty Car Rental, an Oklahoma corporation ("**DTG Operations**"), with reference to the following facts:

WHEREAS, the Wichita Airport Authority, Wichita, Kansas, ("Lessor"), which owns and operates the Wichita Mid-Continent Airport, ("Airport") and Licensee entered into that certain Agreement for Rent A Car Services at the Airport, dated April 15, 2003 as amended by Supplemental Agreement No. 1 dated March 21, 2006 (collectively the "Airport Agreement") wherein the Lessor granted to Licensee the right to operate a car rental service at the Airport, as more fully described in the document, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Licensee, Harvey A. Flacks, Janelle R. Flacks, DTG Operations, Inc., and Thrifty Rent-A-Car System, Inc. are among the parties to that certain Acquisition Agreement dated September 28, 2007 (the "Acquisition Agreement"), pursuant to which Licensee has agreed to sell and DTG Operations has agreed to purchase certain assets of Licensee and to assume certain liabilities used in the conduct of Licensee's vehicle rental business situated in Wichita, Kansas; and

WHEREAS, in connection with the transaction contemplated in the Acquisition Agreement, Licensee desires to assign all of its rights, title, interest, obligations and liabilities in the Airport Agreement to DTG Operations and DTG Operations desires to assume Licensee's rights, title, interest, obligations and liabilities in the Airport Agreement, in accordance with the terms and conditions of this Assignment and Assumption Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Capitalized Terms. Capitalized terms used herein shall have the meanings ascribed to them in the Acquisition Agreement unless otherwise defined herein.

2. Assignment. Licensee hereby grants, sells, conveys, transfers, assigns and delivers unto DTG Operations all of its right, title, interest, obligations and liabilities in and to the Airport Agreement, including all claims and rights belonging or appertaining to any of the foregoing, effective as of 12:01 a.m. on December 1, 2007 (the "Effective Date").

3. Assumption. DTG Operations hereby accepts the foregoing assignment effective as of the Effective Date and, except as otherwise provided herein, agrees to assume full responsibility for and to faithfully perform or comply with all covenants, terms, stipulations, duties, obligations and conditions contained in the Airport Agreement from and after the Effective Date, including, without limitation, the payment of rent and all other sums due pursuant to the Airport Agreement that are incurred or accrue from and after the Effective Date. DTG Operations shall not, by this Assignment, assume any duties, contract, agreement, liability or obligation (whether accrued, absolute, contingent, known, unknown or otherwise) that is not expressly included or which arose before the Effective Date, including, but not limited to,

liabilities for any prior and/or existing environmental contamination of any premises leased to Licensee under the Airport Agreement.

4. Licensee's Warranties. Licensee hereby covenants with and warrants to DTG Operations as follows:

A. Licensee is the lawful owner of the Airport Agreement, free and clear of all liens, claims, collateral or other assignments, subleases and encumbrances of any kind;

B. The Airport Agreement is in full force and effect, and neither Licensee, nor to Licensee's knowledge, the Lessor, the second party under such Airport Agreement, is in breach of or in default under the Airport Agreement as of the Effective Date, nor to Licensee's knowledge does any circumstance exist which would constitute a breach or default under the Airport Agreement upon the service of notice or the passage of time;

C. All rents, fees, reimbursements and other charges due from Licensee under the Airport Agreement have been duly paid through the Effective Date;

D. Licensee, to the best of its knowledge and belief, has not knowingly violated in any material respect any federal, state or local law, ordinance or regulation relating to the Airport Agreement;

E. Licensee has full power and authority to execute this Assignment and to consummate the transactions contemplated hereby, and this Assignment constitutes a legally binding and valid obligation of Licensee enforceable in accordance with its terms; and

F. No tax, mechanics', materialmens' or other liens have attached to, or will attach to, any real or personal property covered by the Airport Agreement due to any act or omission of Licensee through the Effective Date, and all rents, fees, taxes, utility and other operating expenses incurred through the Effective Date with respect to all real and personal property covered by the Airport Agreement have been or will be fully paid by Licensee as they come due.

G. Licensee agrees to indemnify and hold DTG Operations harmless from and against any and all loss, injury, damage, liability and obligations of any nature whatsoever arising from the inaccuracy of the covenants and warranties set forth herein. This indemnity shall include all reasonable costs, expenses and liabilities incurred in connection with any claim in the defense thereof.

5. Consent. This Assignment and the transactions contemplated hereby are conditioned and contingent upon the consent of the Lessor, to the extent such consent is required by the terms of the Airport Agreement, and DTG Operations' receipt of a form of consent acceptable to DTG Operations. The Lessor hereby consents to this Assignment and Assumption Agreement and to the assignment by Licensee of all matters assumed by DTG Operations in Paragraph 3 above.

6. Binding Effect. The terms hereof shall inure to the benefit of DTG Operations and their respective successors and assigns and shall be binding upon Licensee and its successors and assigns.

7. Further Assurances. The parties shall without further consideration execute and deliver such instruments and give such further written assurances as may be reasonably requested by any other party to carry into effect the transactions contemplated hereby.

8. Amendment. This Assignment may not be amended except by an instrument in writing executed by each of the parties hereto.

9. Entire Agreement. This Assignment constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder except as otherwise expressly provided herein.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed effective as of this 1st day of December, 2007.

Attest

Carla Kildow

"Licensee"
Flacks Enterprises, Limited
dba Thrifty Car Rental

By: Harvey A. Flacks
Name: Harvey A. Flacks
Its: President

Attest

"DTG Operations"
DTG Operations, Inc.
dba Thrifty Car Rental

By: Dean W. Strickland
Dean W. Strickland
Vice President

Attest

"Lessor"
The Wichita Airport Authority
Wichita, Kansas

By:

Approved As to Form

Director of Law

Date: 1-9-08

EXHIBIT A
to
Assignment and Assumption Agreement

AGREEMENT FOR RENT A CAR SERVICES

WAA
COPY

11/18/86

A G R E E M E N T

By and Between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas

and

DOLLAR SYSTEMS, INC.

for

Rent-A-Car Service
Wichita Mid-Continent Airport

THIS AGREEMENT, made and entered into this 15th day of December, 1986, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the "LESSOR", and DOLLAR SYSTEMS, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereinafter referred to as "LESSEE".

WITNESSETH:

WHEREAS, The Lessor owns and operates the Wichita Mid-Continent Airport; and

WHEREAS, the Lessor has determined that a public necessity exists for car rental service to serve the patrons and air travelers arriving at and departing from said Airport; and

WHEREAS, the Lessor has determined that Lessee's service, together with other rent-a-car agencies operating on the Wichita Mid-Continent Airport, serve a public need;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter contained, the parties agree, for themselves and their successors and assigns, as follows:

AIRPORT AUTHORITY CLERK'S FILE
DIVISION M-C Airport
FILE NO. M.C.A. 195-1986

Dollar has executed Copy
1/16/87 - Copies furnished Bell, Law, Greenlee, Henderson, Bunk, Kt. file

1.

Operating Rights

(a) Subject to the conditions, covenants and terms of this agreement, the Lessor hereby grants to the Lessee the right and privilege to operate a car rental service at said Airport. It is expressly understood and agreed that the scope of the service rendered under this agreement shall be limited to the renting of cars and automobiles and the offering of Personal Accident Insurance for the benefit of drivers and passengers of the rented automobiles, provided said insurance is offered only as a part of and concurrent with the term of the customer's contract for the use of any automobile (but such right shall not include the right to offer so-called flight insurance). This shall not be construed to be an exclusive concession, and the Lessor shall have the right to deal with and perfect arrangements with any other individual, firm or corporation for engaging in like activity at the Airport; provided, however, that no such arrangement shall contain any terms or conditions, including financial, which are more favorable to such other concessionnaire than those granted to Lessee, including by way of enumeration, but not by way of limitation, the same guaranteed annual minimum, concession fee and space rental rates.

(b) Provided further, however, that notwithstanding anything herein contained, the Lessor may make such reasonable distinctions with respect to the assignment and allocation of rental counter space and ready car and check-in areas as it deems justified by the different operational requirements of the respective automobile rental business transacted by each Lessee.

2.

Term

1st Renewal Option Term Extended 12/1/89-11/30/94 See Ltr 11/22/89

The term of this Agreement is for a period of three (3) years, commencing on December 1, 1986 and ending November 30, 1989.

Lessee shall have the right to renew this agreement for three (3) successive periods of five (5) years, subject to the following:

a. A request for renewal shall be made to Lessor at least six (6) months prior to the renewal date;

b. All rental, fees and charges shall be renegotiated for each five (5) year renewal period, but not the definition of Gross Receipts contained herein.

Nothing contained herein shall be construed to grant Lessee any vested right of renewal, absent renegotiation and approval by Lessor of all rentals, fees and charges.

3.

Preferential Use Premises

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for Preferential Use Premises as follows:

During the term of this contract the rate per square foot shall be adjusted every twelve months and be equal to the rate paid by the airlines for ticket counter space. Lessee shall have the use of Two Hundred Twenty-Six and Fifty One Hundredths (226.50) square feet for counter purposes as shown on Exhibit "A", attached hereto and made a part hereof. The first twelve month rental rate shall be SIXTEEN DOLLARS AND SEVENTY EIGHT CENTS ($16.78) per square foot per annum, making an annual amount due of THREE THOUSAND EIGHT HUNDRED DOLLARS AND SIXTY-SEVEN CENTS ($3,800.67) or, THREE HUNDRED SIXTEEN DOLLARS AND SEVENTY-THREE CENTS ($316.73) per month.

It is further understood and agreed that Lessor reserves the right to cause the relocation of rental car counters in the event of Terminal Building modification or expansion, or redesign of the Baggage Claim facilities.

4.

Ready-Car Parking

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for Ready-Car Parking spaces which shall be assigned by Lessor as shown on Exhibit "B", attached hereto and made a part hereof.

The rental charge for Ready-Car Parking spaces shall be THREE THOUSAND TWENTY-FOUR DOLLARS ($3,024.00) per annum, making the monthly amount due of TWO HUNDRED FIFTY-TWO DOLLARS ($252.00).

It is understood and agreed that the number of Ready-Car spaces to be assigned Lessee shall be calculated as follows:

Sixty percent (60%) of total spaces available divided by the number of rental car concessionaires under contract with the Lessor;

Forty percent (40%) of the total spaces available, prorated, based upon the total annual ten-percent-of-the-gross payment to Lessor, as provided for in this Agreement;

The Ready-Car space assignments based upon the ten-percent-of-the-gross payment shall be adjusted annually no later than February 1 of each year.

It is further understood and agreed that Lessor reserves the right to temporarily or permanently relocate Ready-Car Parking space as may be required due to construction or reconstruction of Airport facilities, and in this event, Lessor agrees to furnish the same number of parking spaces.

5.

Consideration Gross Receipt Defined

Lessee shall pay to Lessor in advance, on the first day of each month without demand or invoicing, rentals for minimum consideration.

(a) The minimum consideration which the Lessee shall pay to the Lessor for the rights and privileges herein granted, in addition to space rentals previously provided for, shall be the sum of ~~ONE HUNDRED TWENTY~~ SEVENTY TWO THOUSAND DOLLARS (~~$120,000.00~~ $72,000.00), payable

in ~~sixty (60)~~ THIRTY SIX (36) equal installments of TWO THOUSAND DOLLARS ($2,000.00) each month during the term of this Agreement.

(b) It is further understood and agreed that the monthly payment of TWO THOUSAND DOLLARS ($2,000.00) shall be based on TWENTY THOUSAND DOLLARS ($20,000.00), or ten percent (10%) of the gross monthly receipts, whichever is the greater.

(c) "Definition of Gross Sales" - Gross Receipts shall be defined as the gross revenue received for time and mileage charges for the rental of automobiles by the Lessee at the Airport, and shall include premiums collected by Lessee from the sale of Personal Accident Insurance. "Gross receipts", as used in this Agreement, shall be defined further as the time and mileage charges by the Lessee for renting automobiles from the Airport station to air travelers arriving at the Wichita Mid-Continent Airport, or from short term (transient) rentals made to any employee or operator on the Airport, or from rentals originating at the Wichita Mid-Continent Airport, or made to air travelers where the rental should be diverted by the Lessee from the Airport station to any other location.

(d) In the event said gross monthly billings in any month exceed the sum of TWENTY THOUSAND DOLLARS ($20,000.00), then an additional monthly rental shall be paid to the Lessor based on ten percent (10%) of all said billings above said TWENTY THOUSAND DOLLARS ($20,000.00), and said additional payment shall be made on or before the 15th of the following month.

Late Payment

(e) In the event Lessee fails to make payment within ten (10) days of the dates due as set forth in this Agreement, then Lessee shall pay Lessor a monthly service charge equal to the maximum allowable under state statutes on any such overdue amount, plus reasonable administrative costs and attorneys' fees incurred by Lessor in attempting to obtain payment.

6.

Annual Adjustment & Refund

An annual recapitulation shall be made and the basis of payment shall not be less than TWENTY-FOUR THOUSAND DOLLARS ($24,000.00), or ten percent (10%) of the gross annual receipts as specified, whichever is the greater, during the term of this Agreement. In the event that the payments by the Lessee exceed the above amount, the Lessor agrees to refund such excess or credit the excess against future payments.

7.

Lessee's Equipment and Personnel

Lessee shall provide a fleet of standard make cars in order to supply customers' demands. All such cars are to be new or late model cars, maintained in good appearance and operating condition. Lessee agrees that it shall provide a high standard of personnel and performance consistent with good customer relations.

8.

Assignment

This Agreement may not be assigned or transferred by Lessee, except with the written consent of the Lessor.

9.

Hold Harmless and Insurance

(a) Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor or Lessee, by reason of death or injury to persons, or loss or damage to property, resulting from Lessee's operations hereunder or as the result of anything done or omitted by Lessee hereunder, except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of the Lessor or its agents or employees.

(b) Lessee shall at all times be regarded as an independent contractor, and shall not at any time act as agent for Lessor.

(c) Lessee further agrees that it shall, at its cost and expense, carry and keep in force general liability insurance with an insurer authorized to do business in the State of Kansas, and to be approved by the Lessor, in the amounts of not less than:

$ 500,000.00 for accident to one person;
$1,000,000.00 for accident to two or more persons;
$ 500,000.00 for damage to property.

The Wichita Airport Authority, its officers and employees, shall be carried as additional insureds, and a Certificate of Insurance with a ten (10) day prior cancellation notice endorsement shall be filed with the Lessor.

(d) In addition to the above insurance provision, the Lessee shall, at its cost and expense, carry and keep in force automobile liability insurance of not less than:

$100,000.00 for one person;
$300,000.00 for two or more persons;
$ 25,000.00 property damage;

such liability insurance to cover the rentees of the automobiles of the Lessee. A Certificate of Insurance shall be furnished to the Lessor.

(e) Lessor agrees to notify Lessee in writing as soon as practicable of any claim, demand or action arising out of an occurrence allegedly covered hereunder of which Lessor has knowledge, and to cooperate with Lessee or its agents in the investigation or defense thereof.

10.

Rules and Regulations

Lessee further agrees that all of its officers, agents and employees shall observe and comply with all existing and future rules and regulations issued in connection with the operation of the Airport.

11.

Audit Right

The Lessor or a Certified Public Accountant hired by the Lessor shall have the right to examine and inspect the books of accounts and records of Lessee at Lessee's local office during business hours for the term hereof. If a discrepancy equal to, or greater than three percent (.03) exists between the gross revenues reported by the audit and the Lessee, then the Lessee shall pay the cost of the audit. All amounts found to be in arrears by the audit shall be payable upon notice by Lessor and shall include an interest of One and Seventy Five One Hundredths Percent (.0175) per month from the date the amount was originally due.

12.

Lessor's Termination Rights

Lessor shall have the right, upon ten (10) days' prior written notice to Lessee, to cancel this agreement in its entirety, upon or after the happening of one or more of the following events.

(a) If Lessee shall make a general assignment for the benefit of creditors;

(b) If Lessee shall file a voluntary petition in bankruptcy, or a petition seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any similar state laws;

(c) If an involuntary petition in bankruptcy shall be filed against Lessee, and Lessee is thereafter adjudicated a bankrupt thereunder;

(d) If Lessee shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of the property of Lessee;

(e) If Lessee shall voluntarily abandon and discontinue its automobile rental service at the Airport for a period of twenty (20) consecutive days, or if Lessee shall abandon its premises in the Airport for a period of twenty (20) days;

(f) The transportation or coercion of prospective clients off airport premises for the purpose of renting vehicles and thereby avoiding payment under the terms of this contract.

(g) If Lessee shall fail to pay the rental charges or other money payments required by this instrument and such failure shall not be remedied within ten (10) days following receipt of Lessee of written demand from Lessor to do so; or

(h) If Lessee shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it hereunder and shall fail to commence with due diligence the remedying of said default within ten (10) days following the date of notification by Lessor of such default.

In the event of any cancellation or termination of this Agreement by Lessor for any of the reasons specified above, Lessee shall have ten (10) days within which to remove all trade fixtures and personal property installed in or upon the demised premises by Lessee. If said trade fixtures or personal property cannot be removed within ten (10) days after such termination or cancellation, Lessee shall have a reasonable time thereafter within which to complete their removal.

13.

Lessee's Termination Rights

Lessee shall have the right, upon ten (10) days' prior written notice to Lessor, to cancel this Agreement in its entirety, upon or after the happening of one or more of the following events, if said event or events shall then be continuing:

(a) The issuance by any court of competent jurisdiction of an injunction order or decree preventing or restraining the use by Lessee of all or any substantial part of the demised premises, or preventing or restraining the use of the Airport for normal airport purposes, or the use of any part thereof which may be used by Lessee and which is necessary for Lessee's operations on the Airport, which remains in force for a period of at least ninety (90) days;

(b) If Lessor shall default in fulfilling any of the terms, covenants or conditions to be fulfilled by it under this agreement, and shall fail to commence the remedying of said default within ten (10) days following receipt of written demand from Lessee to do so;

(c) If all or a material part of the Airport or Airport facilities shall be destroyed by fire, explosion, earthquake, other casualty, riot or civil commotion, or acts of God or the public enemy;

(d) If the United States Government or any of its agencies shall occupy the Airport or any substantial part thereof to such an extent as to interfere materially with Lessee's operations for a period of ten (10) consecutive days or more.

14.

Service and Utilities

All service, repair, washing and maintenance of cars, if performed on the Airport, shall be at a location approved by the Director of Airport Operations. Utilities shall be furnished by Lessor for the counter space assigned to Lessee in the Terminal Building, but telephone and data service shall be provided at Lessee's expense.

15.

Care and Maintenance

Lessee shall be responsible for the removal of all ice, snow, trash and debris in the leased rental car area and the abutting drives. Lessee shall also be responsible for all signing, marking and numbering of its leased ready car spaces.

16.

Signs or Advertising

No signs or advertising shall be placed or installed by the Lessee, or its representatives, without written permission from the Lessor. All signs and advertising must be in keeping with the signs and advertising throughout the Terminal Building in general, and must be approved in advance of installation by the Lessor, acting through its authorized agent.

17.

FAA Requirements

Lessor and Lessee further agree that the requirements of the Federal Aviation Administration set out below are approved by both parties, and if applicable, Lessee agrees to comply with all FAA requirements with respect to its operations, the use of the Airport and this lease.

(a) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained or otherwise operated on the said property described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) The Lessee, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action programs, and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(e) Lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that Lessee may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) Lessor reserves the right (but shall not be obligated to Lessee) to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of Lessee in this regard.

(g) Lessor reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

(h) Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the airport which, in the opinion of Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft.

(i) During time of war or national emergency Lessor shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

(j) It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

(k) There is hereby reserved to Lessor, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on or about the airport.

(l) This lease shall become subordinate to provisions of any existing or future agreement between the Lessor and the United States of America or any agency thereof relative to the operation, development or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

18.

Lessor's Obligations

Lessor hereby covenants and agrees to take all appropriate action within its authority to protect the rights and privileges demised and granted to the automobile rental agency or agencies under this and similar agreements.

19.

Notices

All notices or demands provided for or which may be given by either party to the other under the terms of this Agreement shall be in writing, signed by the party giving the notice or making the demand, and shall be deemed validly served or delivered upon physical delivery or upon deposit in the United States mail, restricted, return receipt requested, postage and registration fees prepaid, addressed as follows:

To Lessor:

Director of Airports
The Wichita Airport Authority
2173 Air Cargo Road
Wichita, Kansas 67209

To Lessee:

Gary L. Paxton
Vice President
Dollar Systems, Inc.
Properties & Facilities
6141 W. Century Blvd.
Los Angeles, California 90045

or to such other addresses as the addressee may designate by written notice to the other party delivered in accordance with the provisions of this article.

20.

Kansas Law to Govern

This Agreement and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas.

21.

Successors and Assigns

This Agreement shall be binding upon the parties and their successors and assigns.

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

ATTEST:

By Judye N. Mohring

Title Judye N. Mohring
Airport Clerk

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By Bailis F. Bell

Title Bailis F. Bell
Director of Airports

"LESSOR"

ATTEST:

By

Title

DOLLAR SYSTEMS, INC.

By

Title G.L. PAXTON
Senior Vice President
Operations & Properties

"LESSEE"

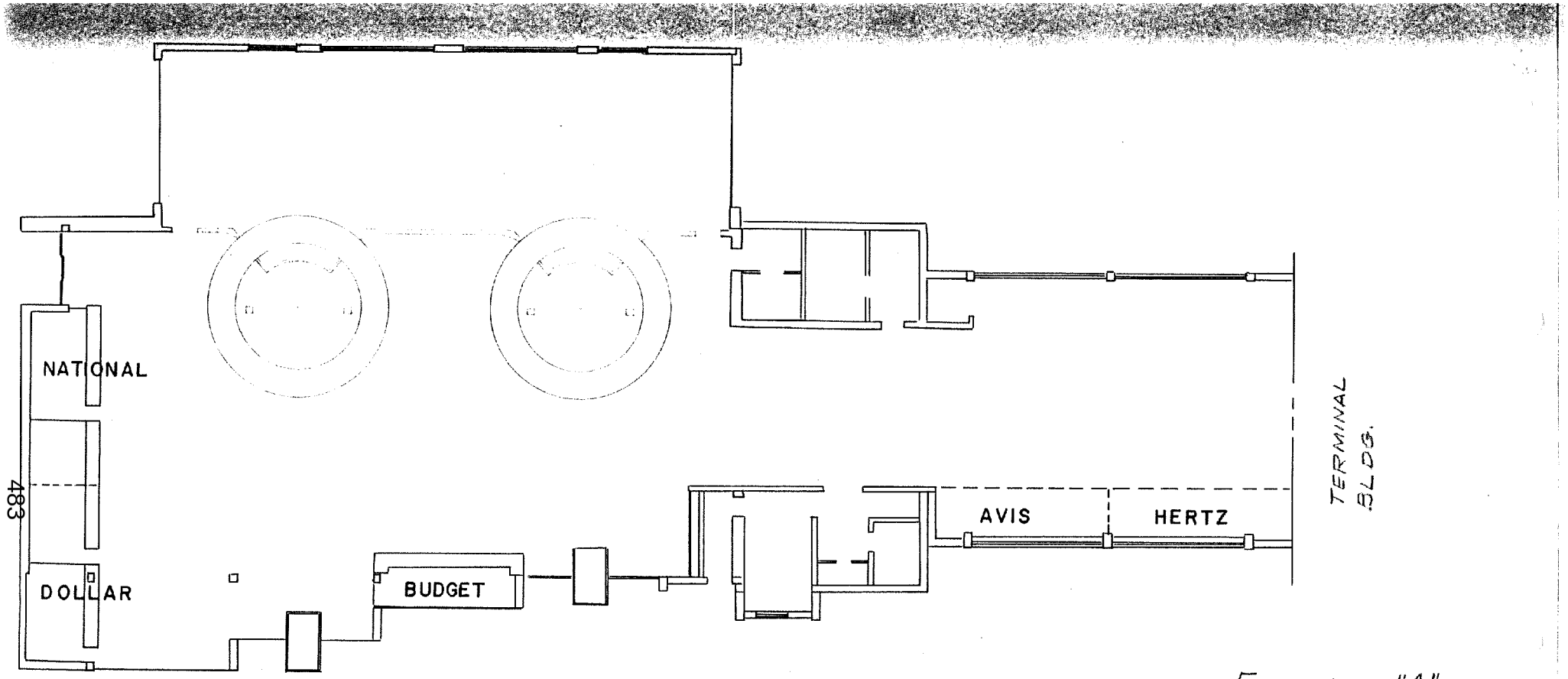


EXHIBIT "A"

BAGGAGE CLAIM FACILITY
EAST WING

WICHITA MID-CONTINENT AIRPORT

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

DATE	DRAWN	SCALE
1-16-70	R.L.P.	1/16"=1'

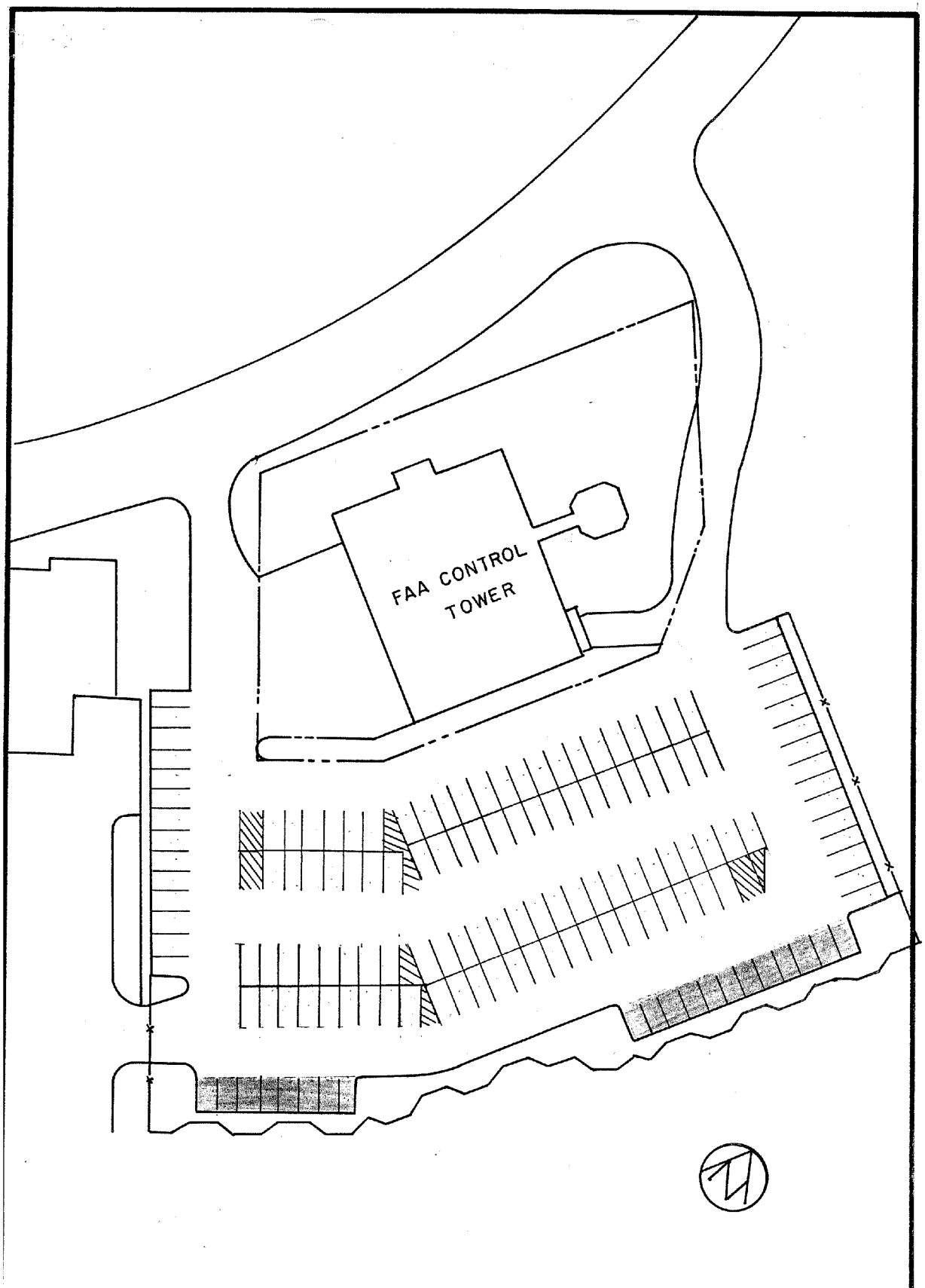


EXHIBIT "B"

Agreement

DOLLAR SYSTEMS, INC.

WICHITA MID-CONTINENT AIRPORT

THE WICHITA AIRPORT AUTHORITY

WICHITA, KANSAS

DATE	DRAWN	SCALE
9-8-83	O.L.	1" = 50'

Rev. 5-21-84

03/21/06

SUPPLEMENTAL AGREEMENT NO. 1

By and Between

THE WICHITA AIRPORT AUTHORITY

And

DOLLAR SYSTEMS, INC.

For

Rent-A-Car Service
Wichita Mid-Continent Airport

This SUPPLEMENTAL AGREEMENT NO. 1, made and entered into this March 21, 2006 by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the LESSOR; and DOLLAR SYSTEMS, INC., hereinafter referred to as the LESSEE.

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated December 15, 1986 for the purpose of providing car rental services to patrons and air travelers using Wichita Mid-Continent Airport; and

WHEREAS, the parties hereto are now desirous of amending the Agreement for the purpose of extending this concession Agreement; and

WHEREAS, the Wichita Airport Authority is in the process of developing plans for the construction of a new terminal building which will house car rental service agencies; and

WHEREAS, the completion date of the terminal building construction is unknown at this time, necessitating short-term Agreements with the car rental agencies.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1.

Term

The term of this Supplemental Agreement No. 1 shall be for a five-year period commencing December 1, 2004 and terminating November 30, 2009.

2.

New Terminal Building & Renewal Option

It is acknowledged that the process for selecting car rental agencies to occupy the new terminal building has not been determined at the time. As set out in Paragraph 1, the term of the extension shall be through November 30, 2009 and then may be automatically renewed on a month-to-month basis, commencing December 1, 2009, until such time as the process for selection is determined. After December 1, 2009, either party may terminate the Agreement upon providing a thirty-day written notice to the other party.

3.

Annual Adjustment & Refund

During the month-to-month extensions, the annual recapitulation outlined in the original agreement, Paragraph 6, Annual Adjustment and Refund, shall be pro-rated for that portion of the twelve-month period during which the extensions are in effect.

Other Terms

4.

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

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS
By direction of the Wichita Airport Authority

By _____
Karen Sublett, City Clerk

By _____
Carlos Mayans, Mayor

"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

DOLLAR SYSTEMS, INC.

By _____

Title _____

By _____

Title _____

"LESSEE"

APPROVED AS TO FORM: _____ Date: 3/15/06
Director of Law

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Assignment**") is made and entered into effective December 1, 2007, by and between **E & J Rental & Leasing, Inc.,**, dba Dollar Rent A Car, a Kansas corporation ("**Licensee**") and **DTG Operations, Inc.**, dba Thrifty Car Rental, an Oklahoma corporation ("**DTG Operations**"), with reference to the following facts:

WHEREAS, the Wichita Airport Authority, Wichita, Kansas, ("Lessor"), which owns and operates the Wichita Mid-Continent Airport, ("Airport") and Dollar Systems, Inc. entered into that certain Agreement for Rent A Car Services at the Airport, dated December 15, 1986, as extended in 1989, in 1994, in 1999 and as supplemented in Supplemental Agreement No. 1 dated March 21, 2006 (collectively the "Airport Agreement") wherein the Lessor granted to Licensee the right to operate a car rental service at the Airport, as more fully described in the document, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Licensee, N. David Johnson, DTG Operations, Inc., and Dollar Rent A Car, Inc. are among the parties to that certain Acquisition Agreement dated October 29, 2007 (the "Acquisition Agreement"), pursuant to which Licensee has agreed to sell and DTG Operations has agreed to purchase certain assets of Licensee and to assume certain liabilities used in the conduct of Licensee's vehicle rental business situated in Wichita, Kansas; and

WHEREAS, in connection with the transaction contemplated in the Acquisition Agreement, Licensee desires to assign all of its rights, title, interest, obligations and liabilities in the Airport Agreement to DTG Operations and DTG Operations desires to assume Licensee's rights, title, interest, obligations and liabilities in the Airport Agreement, in accordance with the terms and conditions of this Assignment and Assumption Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Capitalized Terms. Capitalized terms used herein shall have the meanings ascribed to them in the Acquisition Agreement unless otherwise defined herein.

2. Assignment. Licensee hereby grants, sells, conveys, transfers, assigns and delivers unto DTG Operations all of its right, title, interest, obligations and liabilities in and to the Airport Agreement, including all claims and rights belonging or appertaining to any of the foregoing, effective as of 12:01 a.m. on December 1, 2007 (the "Effective Date").

3. Assumption. DTG Operations hereby accepts the foregoing assignment effective as of the Effective Date and, except as otherwise provided herein, agrees to assume full responsibility for and to faithfully perform or comply with all covenants, terms, stipulations, duties, obligations and conditions contained in the Airport Agreement from and after the Effective Date, including, without limitation, the payment of rent and all other sums due pursuant to the Airport Agreement that are incurred or accrue from and after the Effective Date. DTG Operations shall not, by this Assignment, assume any duties, contract, agreement, liability or obligation (whether accrued, absolute, contingent, known, unknown or otherwise) that is not expressly included or which arose before the Effective Date, including, but not limited to,

liabilities for any prior and/or existing environmental contamination of any premises leased to Licensee under the Airport Agreement.

4. Licensee's Warranties. Licensee hereby covenants with and warrants to DTG Operations as follows:

A. Licensee is the lawful owner of the Airport Agreement, free and clear of all liens, claims, collateral or other assignments, subleases and encumbrances of any kind;

B. The Airport Agreement is in full force and effect, and neither Licensee, nor to Licensee's knowledge, the Lessor, the second party under such Airport Agreement, is in breach of or in default under the Airport Agreement as of the Effective Date, nor to Licensee's knowledge does any circumstance exist which would constitute a breach or default under the Airport Agreement upon the service of notice or the passage of time;

C. All rents, fees, reimbursements and other charges due from Licensee under the Airport Agreement have been duly paid through the Effective Date;

D. Licensee, to the best of its knowledge and belief, has not knowingly violated in any material respect any federal, state or local law, ordinance or regulation relating to the Airport Agreement;

E. Licensee has full power and authority to execute this Assignment and to consummate the transactions contemplated hereby, and this Assignment constitutes a legally binding and valid obligation of Licensee enforceable in accordance with its terms; and

F. No tax, mechanics', materialmens' or other liens have attached to, or will attach to, any real or personal property covered by the Airport Agreement due to any act or omission of Licensee through the Effective Date, and all rents, fees, taxes, utility and other operating expenses incurred through the Effective Date with respect to all real and personal property covered by the Airport Agreement have been or will be fully paid by Licensee as they come due.

G. Licensee agrees to indemnify and hold DTG Operations harmless from and against any and all loss, injury, damage, liability and obligations of any nature whatsoever arising from the inaccuracy of the covenants and warranties set forth herein. This indemnity shall include all reasonable costs, expenses and liabilities incurred in connection with any claim in the defense thereof.

5. Consent. This Assignment and the transactions contemplated hereby are conditioned and contingent upon the consent of the Lessor, to the extent such consent is required by the terms of the Airport Agreement, and DTG Operations' receipt of a form of consent acceptable to DTG Operations. The Lessor hereby consents to this Assignment and Assumption Agreement and to the assignment by Licensee of all matters assumed by DTG Operations in Paragraph 3 above.

6. Binding Effect. The terms hereof shall inure to the benefit of DTG Operations and their respective successors and assigns and shall be binding upon Licensee and its successors and assigns.

7. Further Assurances. The parties shall without further consideration execute and deliver such instruments and give such further written assurances as may be reasonably requested by any other party to carry into effect the transactions contemplated hereby.

8. Amendment. This Assignment may not be amended except by an instrument in writing executed by each of the parties hereto.

9. Entire Agreement. This Assignment constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder except as otherwise expressly provided herein.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed effective as of this 1st day of December, 2007.

Attest

"Licensee"
E & J Rental & Leaseing, Inc.
dba Dollar Rent A Car

By: _____
Name: N. David Johnson
Its: President

Attest

"DTG Operations"
DTG Operations, Inc.
dba Dollar Rent A Car

By: _____
Dean W. Strickland
Vice President

Attest

"Lessor"
The Wichita Airport Authority
Wichita, Kansas

Karen Sublett, CMC

By: _____

Approved As to Form

Date: 1-9-08

Director of Law

EXHIBIT A
to
Assignment and Assumption Agreement

AGREEMENT FOR RENT A CAR SERVICES

City of Wichita
City Council Meeting
September 14, 2010

TO: Wichita Airport Authority

SUBJECT: Federal Aviation Administration
Lease No. DTFASW-10-L-00268, Supplemental Agreement No. 1
2204 South Tyler Road – Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the Agreement.

Background: On August 17, 2010, the Wichita Airport Authority (WAA) approved an agreement with the Federal Aviation Administration (FAA) for use of 3,188 sq. ft. of office building located at 2204 South Tyler Road (Tyler facility) for the Manufacturing Industrial District Office (MIDO) division. Subsequent to the execution of the agreement, FAA staff requested that specific building requirements be met prior to occupancy. The WAA will perform a portion of the work and contract the remaining work to meet the requirements as requested by the FAA.

Analysis: Based upon the FAA's current needs, they are desirous of additional tenant improvements at the Tyler facility, which will include adding emergency-egress lighting, removing three walls, installing a water fountain, and tinting a set of windows. In addition and most importantly, the FAA requires upgrading the restroom facilities to meet the standards of the Architectural Barriers Act Accessibility Standards (ABAAS) and Americans with Disabilities Act (ADA). At the request from the FAA, provisions have been made to include janitorial services by airport staff at the facility.

Financial Considerations: The FAA has agreed to reimburse the WAA for the tenant improvements in a lump sum payment of $17,965. Said amount includes $12,018 for building modifications, $1,598 for window tinting, $2,424 for labor and materials and a 12% administration fee of $1,925. These calculations have been approved by the FAA. The amount of the improvements was arrived by soliciting two independent quotes. The base rental rate of $13.46 per sq. ft. will be increased to $14.43 per sq. ft. to include the janitorial services. The rental rate increase will generate additional annual revenue of $3,100 to the WAA. The total annual rent commencing on September 1, 2010 will be $46,000.

Goal Impact: The Airport's contribution to the Economic Vitality of Wichita is promoted through negotiating agreements which allow Mid-Continent's Airport partners to continue their operations on the Airport, which in turn, generate rental income for the WAA and allows the Airport to continue its operation on a self-sustaining basis.

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

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

Attachments: Agreement.

U.S. Department of Transportation **Federal Aviation Administration** **SUPPLEMENTAL LEASE AGREEMENT**	SUPPLEMENT NUMBER 1	DATE
	TO LEASE NO... **DTFASW-10-L-00268**	

ADDRESS OF PREMISES
Approximately 3188 square feet of rentable space located on the Wichita Mid-Continent Airport, more particularly described as 2204 S. Tyler, Wichita, Kansas. This building is not attached to any other facility and will be solely occupied by the Manufacturing Inspection District Office (MIDO). Premises includes an exclusive use parking area adjacent to the building for the exclusive use of Government vehicles, private vehicles of employees and visitors. Exhibit A, attached hereto and made a part hereof, reflects details of the premises.

THIS AGREEMENT, made and entered into this date by and between The Wichita Mid-Continent Airport Authority hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease.

WHEREAS, the parties agree to renovate the leased space in accordance with the attached drawing, more particularly shown as Exhibit B, and

WHEREAS, as requested by the Government, additional tenant improvements consisting of items included in the scope of work is a total of $17,965.40 to be paid in a lump sum payment, and

WHEREAS, it is agreed that for advanced entry the commencement date of the lease must be changed to September 1, 2010, and

WHEREAS, the Government has a need to contract with the Airport Authority for Janitorial Services for the facility at $.97 per square foot of space, and

WHEREAS, the Government has a need to change the effective date of this lease to September 1, 2010.

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, as follows:

Delete Articles 3, 5, 5a, 5c, and 6 in its entirety and replace as follows with the Addition of 5d:

3. TERM - To have and to hold, for the term commencing on September 1, 2010 and continuing through September 30, 2015 inclusive, PROVIDED that adequate appropriations are available from year to year for the payment of rentals.

5. RENTAL - Rent in the amount of $46,002.84 per annum shall be payable monthly to the Lessor in arrears in the amount of $3,833.57. Utilities and Janitorial are included. Payment will be due on the fifth workday of each month following the end of the period for which payment is being made, without the submission of invoices or vouchers. Subject to available appropriations. Rent shall be considered paid on the date a check is dated or an electronic funds transfer is made. Rent for a period of less than 30 days shall be prorated. Checks will be made payable to:

Mid-Continent Airport Authority
2173 Air Cargo Road
Wichita, Kansas 67209

5a. ANNUAL BREAKDOWN OF COSTS AS FOLLOWS:

Base rental:	$12.00 psf
Utilities:	1.46 psf
Janitorial:	.97 psf
	$14.43 psf

5c. TENANT IMPROVEMENTS: The Lessor agrees to provide upgrades to the restrooms to meet the current standards for the American with Disabilities Act and Architectural Barriers Act Guidelines (ABAAS). The Lessor also agrees to provide additional tenant improvements as requested to provide space as noted on Floor plan more particularly shown in Exhibit B attached. Compensation for the cost of tenant improvements will be made in a lump sum payment when the work is completed.

Actual cost of work associated with the improvements is noted as Exhibit C, and upon approval by the Real Estate Contracting Officer, the Government will reimburse the labor and material costs of the project, this will include a 12% administrative fee to the Wichita Mid Continent Airport Authority. Payment for the tenant finish out will be made within 30 days upon the inspection and acceptance by the Government and the receipt of a detailed invoice. Total cost of the project, including fees, is $17,965.40.

The Airport Authority agrees to make a good faith effort to substantially comply with the provisions of the lease attachments. Government improvements that require additional modifications to meet the space requirements/standards of the FAA will be conveyed to the Lessor in writing and funded by the FAA.

5d. Janitorial: Janitorial services shall be provided as part of this lease by the Wichita Mid-Continent Airport Authority.

6. SERVICES AND UTILITIES (To be provided by Lessor as part of rent. Services shall be Building Standard, unless level of service is prescribed elsewhere in the lease.)
Services, utilities, and maintenance will be provided daily, extending from 6:00a.m. to 6:00 p.m. except Saturday, Sunday, and Federal holidays. Services supplied to technical equipment shall be supplied 24 hours a day, and seven days a week.

The GOVERNMENT shall have access to the leased premises at all times, including the use of electrical services, toilets, lights, elevators, and GOVERNMENT office machines without additional payment.

HEAT 68-72 DEG F
ELECTRICITY
SPECIAL POWER – NOTED BELOW
WATER (hot & cold)
SNOW REMOVAL
TRASH REMOVAL
CHILLED DRINKING WATER
HVAC Cooling – 68-72 DEG. F
GROUND MAINTENANCE
INITIAL & REPLACEMENT LAMPS, TUBES, & BALLASTS
PAINTING – Space painted at a minimum every 5 years
JANITORIAL

All other terms and conditions of Lease No. DTFASW-10-L-00268 shall remain the same.
Supplement No. 1 shall become binding upon execution by both parties

Important: Lessor ☒ is, ☐ is not required to sign this document and return ___ copies to the issuing office. Return receipt requested.

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

LESSOR:

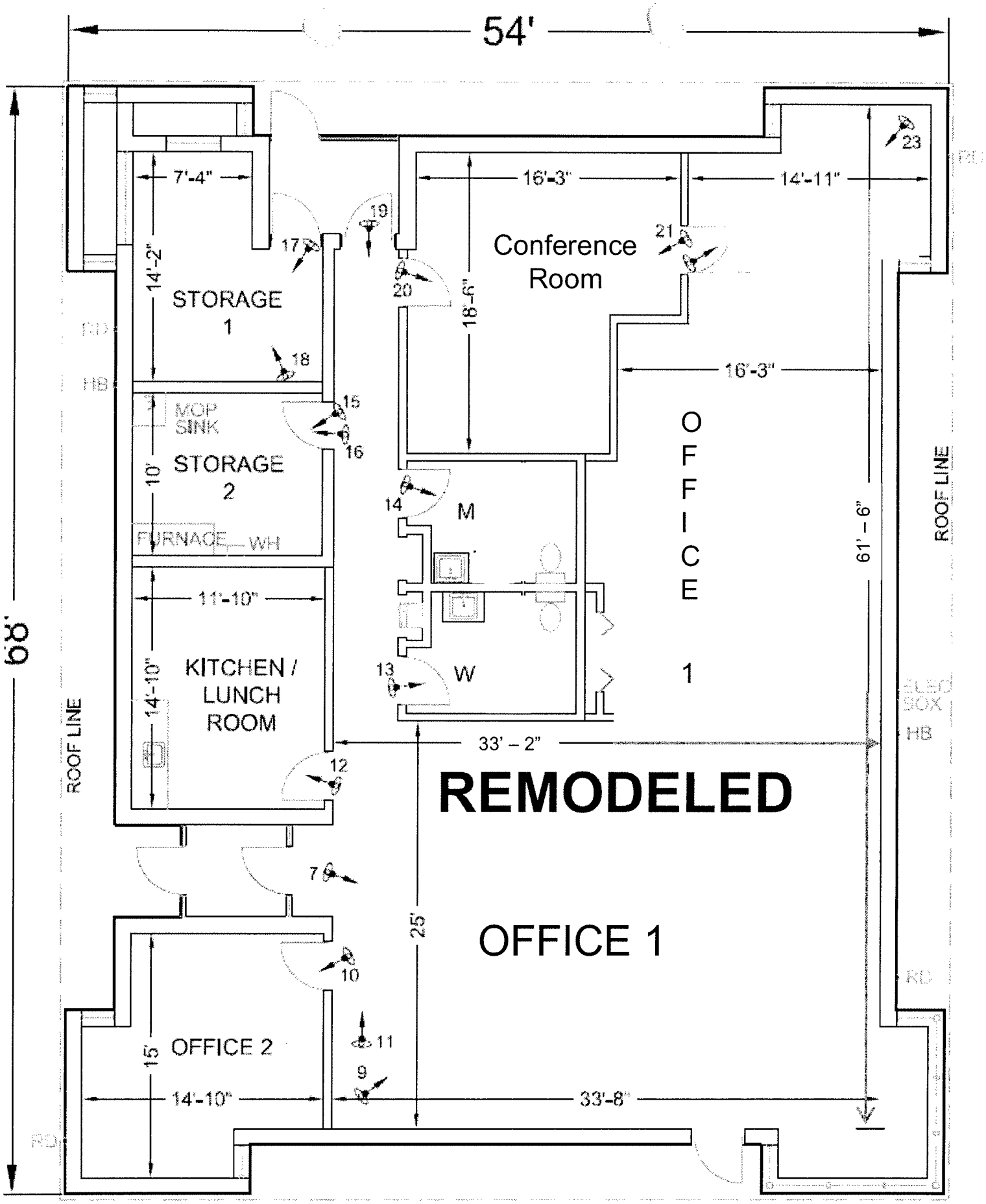
BY _____ _____
(Signature) (Title)

IN THE PRESENCE OF (witnessed by)

_____ _____
(Signature) (Address)

UNITED STATES OF AMERICA

BY _____ Contracting Officer
PATSY J. MCCOMIS (Official Title)



FLOOR PLAN

EXHIBIT B

CITY OF WICHITA
Wichita Airport Authority

2204 S. Tyler Road Remodel – Wichita MIDO group relocation.

Scope of work:

Men's Restroom

- Remove existing stall partition.
- Remove existing floor tile as needed and build 60"H X 60"L stub wall on right side of water closet to accept specified wall grab bar. Outside of finished wall to be 16"- 18" from center of water closet. Cap wall with oak wood trim. Stain and finish matching door color.
- Install a 36" grab bar above toilet tank per current ADA guideline.
- Install a 42" grab bar on stub wall per current ADA guideline.
- Lower existing urinal to 17" at lip of urinal as per current ADA guideline and re-plumb.
- Remove existing urinal partition and Install new polymer urinal partition. Color TBD.
- Build and install a 30" vanity per current ADA guideline. Laminate front & sides with specified Formica laminate (matte finish, color TBD). Vanity sink top to be prefab cultured marble, white color. Re-use existing faucet assembly. Plumb water and drain to new vanity sink. Remove & replace wall mirror if necessary.
- Install new specified dispensers per ADA guideline; toilet paper dispenser, toilet seat cover, paper towel and soap. Owner will advise specific dispenser locations.
- Remove existing door hardware and install new satin finish hardware/lock appropriate for single user (lockable from inside).
  Owner to advise hardware/lock specification.
- Replace VCT as needed. Prep and repaint walls with specified wall paint as needed.

EXHIBIT C
Page 1

Women's Restroom

- Remove existing stall partition.
- Install a 36" grab bar above toilet tank per current ADA guideline.
- Install a 42" grab bar on wall left of water closet per current ADA guideline.
- Build and install a 36" vanity per current ADA guideline. Laminate front & sides with specified Formica laminate (matte finish, color TBD).
  Vanity sink top to be prefab cultured marble, white color. Re-use existing faucet assembly. Plumb water and drain to new vanity sink. Remove existing wall mirror and replace with 36" wall mirror.
- Install new specified dispensers per ADA guideline; toilet paper dispenser, toilet seat cover, paper towel and soap. Owner will advise specific dispenser locations.
- Replace VCT as needed. Prep and repaint walls with specified wall paint as needed.

Break-room

- Install specified water fountain next to break-room counter.
- Remove existing sheetrock on exterior wall to expose cold water supply line and drain line to be plumbed to new water fountain.
- Plumb cold water supply line and drain to new water fountain.
- Replace sheetrock as needed, prep and re-paint wall with specified wall paint.

Remove Interior walls

- Remove interior walls from space 1A.
- Remove interior wall adjacent to space 1A.
- Remove south wall in office 4.
- Frame and sheetrock ceiling headers at removed interior wall locations. Prep and paint sheetrock to match existing wall color.
- Repair carpet at removed walls.
- Repair and adjust ceiling grid and ceiling tiles at removed walls as necessary.

Parts & Material Specifications:

- Airport match Navajo White, satin finish interior wall paint. Sherwin Williams.
- Titan Series Emergency wall pack lights. Grainger #4PG95.
- Elkay EHFSA8L or Halsey Taylor equivalent.
- Hospeco #MT-1
- Other dispensers provided by Airport.
- Vanity laminate matte finish – color TBD.
- Men's restroom poly urinal partition – color TBD.

CITY OF WICHITA
Wichita Airport Authority

August 20, 2010

To: Patsy McComas
From: Wichita Airport Authority – Building Maintenance Dept.
Re: 2204 S. Tyler Road, Wichita, Ks. Building Modifications – MIDO Relocation

The Wichita Airport Authority Building Maintenance Dept. propose to furnish material & labor for building modifications at 2204 S. Tyler Read, Wichita, Ks, as requested By the FAA:

- Remove existing electrical wiring in walls to be removed.
- Relocate wall switches for overhead lighting.
- Relocate wall thermostat.

Cost for Labor & Materials: $2,024.62

EXHIBIT C
Page 4

BSC
BAUER & SON
CONSTRUCTION

415 S. Zelta • Wichita, Kansas 67207-1449
Phone: 316-683-1492 • Fax: 316-684-1372
Web: bscconstruction.com • E-Mail: build@bscconstruction.com

Recommended Contractor
Ryan

PROPOSAL

DATE: August 19, 2010

OWNER: Wichita Airport Authority
ATTN: Frank Heagler

PROJECT: Remodel at 2204 S. Tyler.

Description of Work:

Men's Restroom

1. Remove existing stall partition and save for owner.
2. Remove urinal and demo sheetrock behind. Lower rough-in for new ADA requirement. Save the existing urinal to be re-used.
3. Remove existing vanity and mirror. Save the existing faucet to be re-used.
4. Construct a new 60" high x 60" long wall beside existing toilet to meet 18" ADA requirement. Install sheetrock, finish, hang and paint on new 60" wall. Install an Oak cap on the new wall and finish to match existing.
5. Install new sheetrock, finish and paint on wall behind urinal. Reinstall urinal.
6. Furnish and install new polymer urinal partition.
7. Construct a new 30" handicap vanity finished with plastic laminate.
8. Furnish and install a new 30" vanity top with integral lavatory.
9. Furnish and install a new 30" vanity mirror.
10. Reinstall faucet with trap and water insulation kit.
11. Furnish and install one (1) 36" and one (1) 42" grab bar at existing toilet.
12. Install toilet accessories furnished by owner.
13. Patch all holes and paint to match existing.

Women's Restroom

1. Remove existing stall partition and save for owner.
2. Remove existing vanity. Save the existing faucet and top to be re-used.
3. Construct a new 36" handicap vanity finished with plastic laminate.
4. Reinstall vanity top.
5. Reinstall faucet with trap and water insulation kit.
6. Install toilet accessories furnished by owner.
7. Paint all holes and paint to match existing.
8. Furnish and install one (1) HOSPECO napkin dispenser.

Break-room

1. Disconnect existing faucet and sink to be re-used.
2. Remove sink cabinet to be re-used.
3. Remove sheetrock to allow for new plumbing.
4. Install new plumbing for new drinking fountain.
5. Install new sheetrock, finish and paint on wall behind sink cabinet.
6. Reinstall sink cabinet, sink and faucet.
7. Furnish and install a new drinking fountain.
8. Paint wall to match existing.

Construction Professionals Since 1948
License #4

Open Office

1. Remove all doors in Offices 1A and 4, save for owner.
2. Remove existing walls in Office 1A per Floor Plan.
3. Remove existing walls in Office 4 per Floor Plan.
4. Frame and sheetrock ceiling headers at wall locations, finish and paint to match existing.
5. Repaint walls and paint patches to match existing.
6. Furnish and install two (2) Titan emergency wall packs. Owner to wire and hook up.

CONTRACTOR'S PRICE.....$ 12,018.00 plus Sales Tax

Proposal Qualifications and Exclusions:

1. First shift work only, no overtime is included.
2. Carpet patch and /or repair to be by owner.
3. All LAN and electrical work to be by owner.
4. No sales tax is included.

All work to be completed in a professional manner according to the specifications previously listed. Any additional work over and above the Scope of Work will be approved in writing by owner before work is begun. Our workers are fully covered by Worker's Compensation Insurance

DATE: August 19, 2010 **CONTRACTOR:** Tim Brockman

Tim Brockman – Project Supervisor

EXHIBIT C
Page 6

Kansas Window Tinting

144 Emporia ct
Valley Center, KS 67147
Phone # 316-755- 3463
Fax # 316-755-3748

Estimate

DATE	ESTIMATE #
8/18/2010	2234

NAME / ADDRESS
Airport Authority 2204 S. Tyler Wichita, Ks. 67209

Recommended Contractor
Ryan

PROJECT

DESCRIPTION	QTY	COST	TOTAL
Install 3M NV 25 on 8 panes:		1,597.50	1,597.50T
Install door & transom - $239.56 (not included)			
3M 12 year film warranty			
Sales Tax		7.30%	116.62

estimates valid for 30 days

TOTAL $1,714.12

Star
Flooring & Decorating

Re: Old Weather Service Building 8/16/2010
2204 S. Tyler

Attn: Frank Heagler

Carpet Tiles
Milliken - Midnight Sparke - #6340
***Patch in carpet where walls are removed with stock*
***Replenish stock*

	Material & Labor	$400.42
	Tax @ 7.3%	~~$29.23~~ N/A
Price good for 60 days	Total	$429.65

***Bid includes take up of existing material*

*Exclusions: CaCl testing for moisture emissions, Additional insurance requirements above what is currently held by Star Commercial Flooring, Bonds and their associated costs not listed in the specifications, non-standard floor prep (i.e., dimples or chatter in concrete more than 1" wide or 1/8" deep, variations at saw and cut joints varying more than 1/8 of an inch), protection, sealing, waxing of installed finishes, sealing of grout unless specified. Results of these exclusions could lead to a potential change order.

Christine Blaine
Star Commercial Flooring
Ph: 316-941-1741

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL SEPTEMBER 14, 2010

a. Water Distribution System to serve Cornfield Addition (north of 55th Street South, east of Seneca) (448-90458/470121) Traffic to be maintained using flagpersons and barricades. (District IV) - $18,700.00

b. 2010 Contract Maintenance Concrete Repairs, Ph 1 (north of 63rd Street South, east of 135th Street West) (472-84429/132723/636234/133116/) Traffic to be maintained using flagpersons & barricades. (District I,II,III,IV,V,VI) - $500,000.00

b. The cost of construction of Water Distribution System for to serve Ideal Acres Addition and Gow Acres Addition (south of 13th, east of Zoo Boulevard). (District VI). (District VI) (448-90490/735452/470-125) – Total Estimated Cost $15,687.00

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Petitions to construct Sanitary Sewer and Water Improvements in part of USD 259 Addition (north of I-235 North, west of Seneca) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the petitions.

Background: The petitions have been signed by one owner representing 100% of the improvement districts.

Analysis: The projects will provide sanitary sewer and water improvements to an existing industrial area.

Financial Considerations: The petitions total $66,532. The funding source is special assessments.

Goal Impact: These projects address the Efficient Infrastructure goal by extending sanitary sewer and water distribution systems to an industrial area.

Legal Considerations: State Statutes provide that a petition is valid if signed by a majority of resident property owners or by owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the petitions, adopt the resolutions and authorize the necessary signatures.

Attachments: Map, CIP sheets, petitions, and resolutions.

132019

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-242

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF WATER DISTRIBUTION SYSTEM NUMBER 448-90494 (NORTH OF I-235 NORTH, WEST OF SENECA) 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 WATER DISTRIBUTION SYSTEM NUMBER 448-90494 (NORTH OF I-235 NORTH, WEST OF SENECA) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Water Distribution System Number 448-90494 (north of I-235 North, west of Seneca).

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Thirty-One Thousand Dollars ($31,000) exclusive of the cost of interest on borrowed money, with 100 percent of the total cost 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, 2010, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Six Thousand Six Hundred Eighty-Two Dollars ($6,682).

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:

PARCEL "A"

A portion of Lot 1, Block A, USD 259 Addition, Wichita, Sedgwick County, Kansas described as beginning at the SE corner of said Lot 1; thence N90°00'00"W, along the south line of said Lot 1, 304.80 feet; thence N00°01'16"W, parallel with the west line of said Lot 1, 847.75 feet to a point 100.00 feet normally distant south of the north line of said Lot 1; thence N90°00'00"E parallel with the north line of said Lot 1, 301.52 feet to a point on the east line of said Lot 1; thence S00°14'36"E, along the east line of said Lot 1, 874.76 feet to the point of beginning.

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: PARCEL 'A' shall pay 100 percent of the total cost of the improvements.

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 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

First Published in the Wichita Eagle on September 14, 2010

RESOLUTION NO. 10-243

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 128, SANITARY SEWER NO. 23 (NORTH OF I-235 NORTH, WEST OF SENECA) 468-84701 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 128, SANITARY SEWER NO. 23 (NORTH OF I-235 NORTH, WEST OF SENECA) 468-84701 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 128, Sanitary Sewer No. 23 (north of I-235 North, west of Seneca) 468-84701.

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, 2010, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Twelve Thousand Eight Hundred Fifty Dollars ($12,850).

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:

PARCEL "A"

A portion of Lot 1, Block A, USD 259 Addition, Wichita, Sedgwick County, Kansas described as beginning at the SE corner of said Lot 1; thence N90°00'00"W, along the south line of said Lot 1, 304.80 feet; thence N00°01'16"W, parallel with the west line of said Lot 1, 847.75 feet to a point 100.00 feet normally distant south of the north line of said Lot 1; thence N90°00'00"E parallel with the north line of said Lot 1, 301.52 feet to a point on the east line of said Lot 1; thence S00°14'36"E, along the east line of said Lot 1, 874.76 feet to the point of beginning.

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: PARCEL 'A' shall pay 100 percent of the total cost of the improvements.

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.

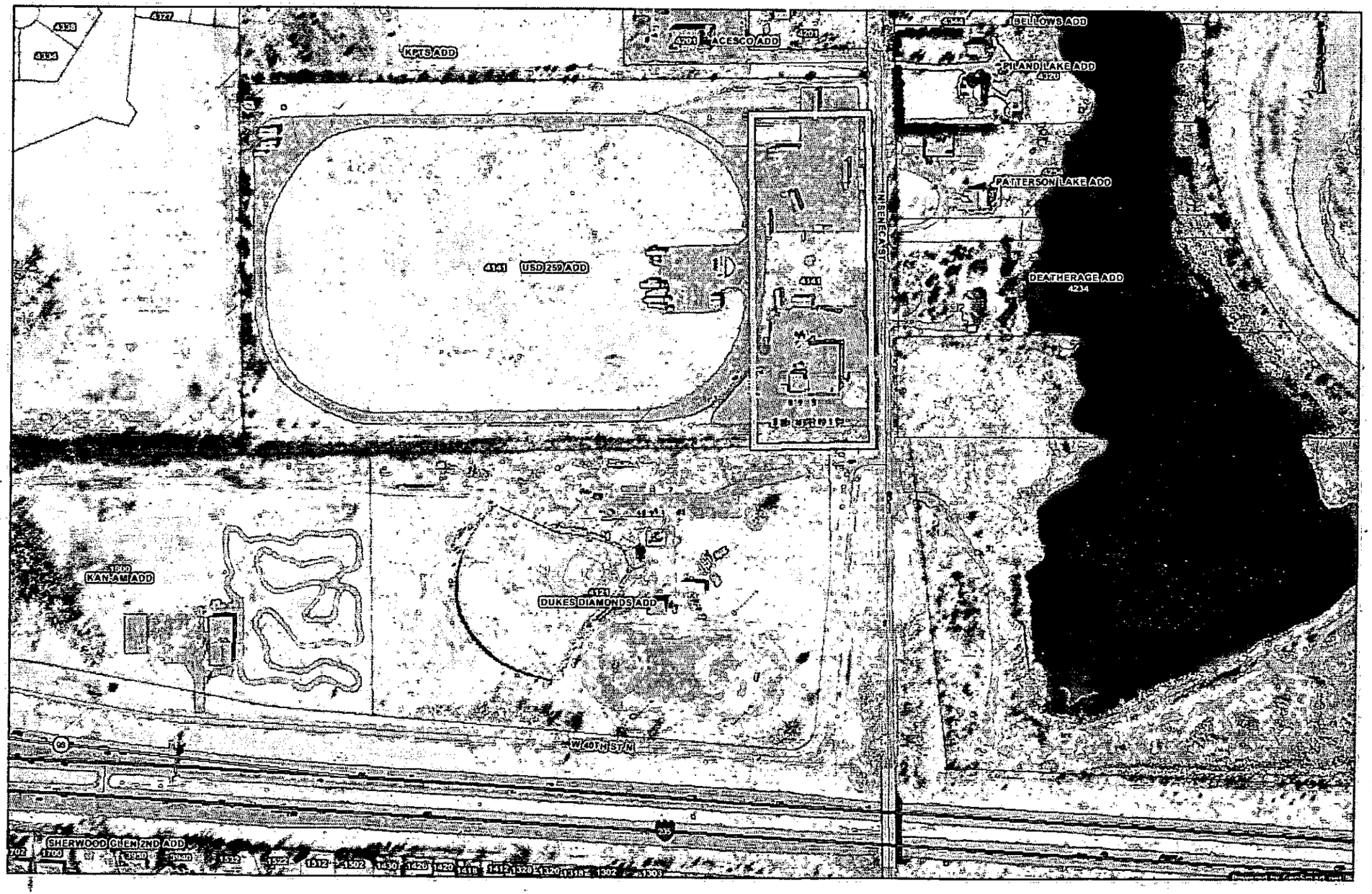
PASSED by the governing body of the City of Wichita, Kansas, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)


KPTS ADD
ACESCO ADD
BELLOWS ADD
PILAND LAKE ADD
PATTERSON LAKE ADD
DEATHERAGE ADD
USD 259 ADD
KAN-AM ADD
DUKES DIAMONDS ADD
W 40TH ST N
SHERWOOD GLEN 2ND ADD

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	Eng	8/24/2010	Sanitary Sewer in USD 259 Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer		$28,850		$28,850
Sidewalk				
Water				
Other				
Totals		$28,850		$28,850
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 128, SS # 23

468-84701

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	X
To Revise Project	

1. Prepare in triplicate
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	8/24/2010	Water Distribution System in USD 259 Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI-200424		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				-
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water		$37,682		$37,682
Other				
Totals		$37,682		$37,682
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

* Water Utility

448-90494

13. Recommendation: Approve the Petition and adopt the Resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

$

RECEIVED
AUG 04 '10
CITY CLERK OFFICE

Lot Split

SANITARY SEWER 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:

PARCEL "A"

A portion of Lot 1, Block A, USD 259 Addition, Wichita, Sedgwick County, Kansas described as beginning at the SE corner of said Lot 1; thence N90°00'00"W, along the south line of said Lot 1, 304.80 feet; thence N00°01'16"W, parallel with the west line of said Lot 1, 847.75 feet to a point 100.00 feet normally distant south of the north line of said Lot 1; thence N90°00'00"E parallel with the north line of said Lot 1, 301.52 feet to a point on the east line of said Lot 1; thence S00°14'36"E, along the east line of said Lot 1, 847.76 feet to the point of beginning.

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

(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, said lateral sanitary sewer to connect to an existing sanitary sewer main.

460-84701

(b) That the estimated and probable cost of the lateral sanitary sewer is 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 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 one percent per month from and after September 1, 2010.

Lateral 128, SS#23

(c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing sanitary sewer main, such benefit fee to be in the amount of Twelve Thousand Eight Hundred Fifty Dollars ($12,850.00).

(North of I-235 North, West of Seneca)

(d) 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 lateral sanitary sewer for which the improvement district is liable, plus the benefit fee.

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.

(e) That the method of assessment of all costs of the improvements for which the improvement district is 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: PARCEL 'A' shall pay 100 percent of the total cost of the improvements.

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 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. 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 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
PARCEL 'A'	Price Transportation, Inc. By: Edward J. Toon Edward J. Toon, President	8/4/10

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Judy Jerkins
Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 4th day of August 2010.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Deborah Wadlock
Deputy City Clerk

RECEIVED

AUG 04 '10 Lot Split

CITY CLERK OFFICE

WATER DISTRIBUTION SYSTEM 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:

448-90494

PARCEL "A"

A portion of Lot 1, Block A, USD 259 Addition, Wichita, Sedgwick County, Kansas described as beginning at the SE corner of said Lot 1; thence N90°00'00"W, along the south line of said Lot 1, 304.80 feet; thence N00°01'16"W, parallel with the west line of said Lot 1, 847.75 feet to a point 100.00 feet normally distant south of the north line of said Lot 1; thence N90°00'00"E parallel with the north line of said Lot 1, 301.52 feet to a point on the east line of said Lot 1; thence S00°14'36"E, along the east line of said Lot 1, 847.76 feet to the point of beginning.

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-One Thousand Dollars ($31,000), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth 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, 2010.

(c) That, in accordance with the provisions of K.S.A. 12-6a19, a benefit fee be assessed against the improvement district with respect to the improvement district's share of the cost of the existing water main, such benefit fee to be in the amount of Six Thousand Six Hundred Eighty-Two Dollars ($6,682.00).

(d) 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.

(e) That the method of assessment of all costs of the improvement or which the improvement district shall be liable, plus the benefit fee, 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: PARCEL 'A' shall pay 100 percent of the total cost of the improvements.

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. 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. 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
PARCEL 'A'	Price Transportation, Inc. By: Edward J. Toon Edward J. Toon, President	8/4/10

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Judy Jerkins
Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 4th day of August 2010.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Deborah R. Padlock
Deputy City Clerk

Agenda Item No. XII-6a

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Community Events – 2010 Wichita Wagonmasters Chili Cookoff (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 promoter Devin Hansen, Wichita Wagonmasters is coordinating with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

2010 Wichita Wagonmasters Downtown Chili Cookoff, September 22, 2010 6:00 am – 5:00 pm

- 500 and 600 block of East Douglas Avenue, Emporia Street to Viaduct Bridge.
- 100 block of North St. Francis Street
- 100 block of South St. Francis Street

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: None

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

Agenda Item No. XII-6b

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

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

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

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

Analysis: The following street closure requests have been submitted:

WWE Smackdown October 4, 2010 7:00 am – October 5, 2010 2:00 am

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

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: None

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

Agenda Item No. XII-6c

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Community Events – Intrust Bank Arena (Carrie Underwood) (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

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

Analysis: The following street closure requests have been submitted:

Carrie Underwood October 19, 2010 7:00 am – October 20, 2010 2:00 am

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

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: None

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

Agenda Item No. XII-6d

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Constitution Day Reading of the Constitution (District VI)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: The event sponsor Mike Shaw is coordinating with City of Wichita Staff, subject to final approval by the City Council.

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

Constitution Day Reading of the Constitution September 18, 2010 10:00 pm – 12:00 pm

- Central Avenue, Main Street to Water Street east of intersection and private drive.
- Main Street, Elm Street to Central Avenue

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

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

Goal Impact: Enhance the Quality of Life for citizens through special events and activities.

Legal Consideration: None.

Recommendation/Actions: It is recommended that the City Council approve the request subject to the promoter obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: ASR – Liquid Oxygen Storage Tanks Contract (All districts)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendation: Approve the agreement with Airgas for liquid oxygen storage tanks for Aquifer Storage and Recovery (ASR).

Background: On July 10, 2007, the Council approved and instructed staff to proceed with the projects necessary for Phase II of the Equus Beds ASR Project. The new water treatment plant and intake structure require Liquid Oxygen Storage Tanks.

Analysis: The disinfection process for the new water treatment plant uses both hydrogen peroxide and liquid oxygen. The liquid oxygen must be stored in two bulk cryogenic 15,000 gallon double walled tanks. These tanks generally require a lead time of 14 weeks for construction and delivery and installation is needed by November 30, 2010.

The Purchasing Manager issued a Request for Qualification (RFQ) with a corresponding sealed bid for liquid oxygen storage tanks for the Production and Pumping Division of Wichita Water Utilities. The RFQ was prepared in a manner that the vendors would be selected as qualified to bid and only then would their sealed proposals be opened to determine the lowest overall cost.

Proposals were received from Airgas Mid South and Air Products.

The selection committee unanimously agreed that both Air Products and Airgas Mid South met the qualifications as defined in the RFQ and that both sealed proposals would be opened. Airgas Mid South's proposal totaled $455,100. Air Products proposal totaled $809,124. The estimated cost of each tank ranged between $250,000 and $300,000. Airgas Mid South's proposal was selected for recommendation to the City Council.

Financial Considerations: The estimated cost for construction and installation of these tanks is $455,100. Funding for these services is available in the CIP in W-549, Water Supply Plan, which is for future water supply development.

Goal Impact: This project addresses the Ensure Efficient Infrastructure goal by ensuring that Water Utilities has sufficient facilities to support and maintain the Equus Beds Well Field.

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

Recommendations/Actions: It is recommended that the City Council approve the agreement and authorize the necessary signatures

Attachments: Agreement.

AGREEMENT

THIS AGREEMENT, with an effective date of the ____ day of _____, 2010, is made and entered into between the CITY OF WICHITA, KANSAS, a municipal corporation, acting by and through the Wichita Water Utilities (hereinafter called the "City", "Owner" and/or "Buyer"), and AIRGAS MID SOUTH, INC., a Delaware corporation with a principal place of business at 31 North Peoria Avenue, Tulsa, OK 74120, (hereinafter called the "Manufacturer" and/or "Seller"). (City and Manufacturer may be collectively referred to herein as "Parties", or individually as "Party".)

Recitals

WHEREAS, the City has developed an Integrated Local Water Supply (ILWS) Plan to meet the City's water supply requirements through the year 2050. This Plan consists of a portfolio of projects and components to be constructed in phases over a 10-year period that must be coordinated in order to meet the Plan's water supply goals.

WHEREAS, the City has solicited proposals for FP030057; and

WHEREAS, Manufacturer has submitted the proposal most beneficial to the City and is ready, willing and able to provide the Goods and Services requested by the City;

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

Section I – Work

A. Manufacturer shall provide to the City all those Goods and Services specific in its response to Formal Proposal Number [FP030057] which is incorporated herein by this reference the same as if it were fully set forth. The Request for Qualifications and Price Proposal (RFQ/P) package, including all addenda provided by the City as part of the RFQ/P letting process for Formal Proposal Number [FP030057] shall be considered a part of this contract and is incorporated by reference herein.

Section II – The Project

A. The Project for which the Work under the Contract Documents may be a whole or only a part is generally described as follows:

The scope of the Project is to construct a new 30 MGD, expandable to 60 MGD, Surface Water Treatment Plant (SWTP) for the ASR Phase II component of the ILWS Plan. The ASR Phase II SWTP will include the two 15,000 gallon double walled tanks (each), ambient air vaporizers and appurtenances as part of the Advanced Oxidations Processes (AOP) treatment system for the ASR Phase II SWTP.

Section III – Design/Builder

A. The Project has been designed by ABC Partners, JV (Design/Builder), which is to act as the City's representative, assume all duties and responsibilities, and have the rights and authority assigned to Design/Builder in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

B. The Requirements of the RFQ/P were prepared by ABC Partners, JV, 9400 Ward Parkway, Kansas City, MO 64114, in conjunction with the Program Manager, R. W. Beck, Inc., 303 South Topeka Avenue, Wichita, Kansas 67202.

Section IV – Point of Delivery

A. The place where the Goods are to be delivered is defined in the General Conditions as the Point of Delivery and is located at 11501 N. 119th St. W., Sedgwick, KS 67135, southwest of the intersection of 117th Street North and 119th Street West in Sedgwick County, Kansas.

Section V – Contract Times

A. **Time Is of the Essence.** All time limits for Milestones, if any, Substantial completions, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract. The reference to days in this contract shall be understood to mean calendar days.

B. **Dates for Substantial Completion and Final Payment.** The work will be substantially completed on or before November 30, 2010, and completed ready for final payment in accordance with Paragraph 10.06 of the General Conditions on or before January 31, 2011.

C. **Liquidated Damages.** Manufacturer and City recognize that time is of the essence as stated in Section V.A above and that the City will suffer financial loss in an amount that is difficult to quantify if the Work is not completed within the time specified in Section V.B above, plus any extension thereof allowed in accordance with Article 7.03 of the General Conditions. Accordingly, if the Manufacturer fails to deliver and unload the Equipment by November 30, 2010, it is understood and the Manufacturer hereby agrees that the amount of $2,000 per calendar day, to a maximum of 10% of the contract price, may be deducted from the moneys due to the Manufacturer for each intervening calendar day that expires after the time specified in Section V.B above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Manufacturer shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by the City, Manufacturer shall pay the City $2,000 for each calendar day that expires after the time specified in Section V.B above for completion and readiness for final payment until the Work is completed, delivered, unloaded and ready for final payment. In the event

liquidated damages are caused by the Manufacturer and another entity, the City may reasonably apportion damages. Manufacturer will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the Manufacturer (e.g. acts of God, war, fires, floods, freight embargos), provided that Manufacturer as notified in Writing the reason for the performance failure and submitted proof of the circumstances responsible for non-performance. The right to assess liquidated damages is in addition to, and not in limitation of, any right or remedy available to the City.

Section VI – Contract Price

A. Owner shall pay Manufacturer for completion of the Work in accordance with the Contract Documents an amount in current funds at the price stated in Manufacturer's Price Proposal attached hereto as an exhibit.

Section VII - Payment Procedures

A. **Submittal and Processing of Payments.** Manufacturer shall submit Applications for Payment as specified herein and in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Owner as provided in the General Conditions.

B. **Progress Payments.** Payments will be made on the basis of completion of the Work in accordance with the Contract Documents and as stated in the following Payment Schedule.

MILESTONE AND PAYMENT SCHEDULE

Work Item Description	Quantity	Value	Required Delivery Date
Approved Final Submittals (Includes Drawings).	1 Lot	15%	Complete set of submittals due 6 weeks after receipt of order (ARO).
Receipt and Acceptance of all Equipment at Project Site Location (Substantial Completion).	1 Lot	70%	November 30, 2010
Final Acceptance of the Work (Final Completion).	1 Lot	15%	January 31, 2011

C. **Invoice Requirements.** The following information shall be included on all invoices provided by Manufacturer:

1. Owner Purchase Order, OCA, and PPN Numbers.
2. Item description and quantity.
3. Item price and extension.
4. Reference Work Item Description as noted in the above Table.
5. Any other information deemed necessary by the Manufacturer.

D. **Final Payment.** Upon final completion and acceptance of the Work in accordance with Paragraph 10.05 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 10.05.

Section VIII - Manufacturer's Representations

A. In order to induce City to enter into this Agreement, Manufacturer makes the following representations:

1. Manufacturer has examined and carefully studied the Contract Documents and the other related data identified in the RFQ/P.
2. Manufacturer has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Manufacturer is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Manufacturer is aware of the general nature of work to be performed by Design/Builder and others at the Site that relates to the Work as indicated in the Contract Documents.
5. Manufacturer has given the Project Administrator written notice of all conflicts, errors, ambiguities, or discrepancies that Manufacturer has discovered in the Contract Documents, and the written resolution thereof by Project Administrator is acceptable to Manufacturer.
6. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Section IX - Contract Documents

A. **Contents.** The Contract Documents consist of the following:

1. This Agreement (pages 1 to 7, inclusive).
2. Exhibits to this Agreement (enumerated as follows):
   a. Exhibit A – Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements (pages 1 to 3, inclusive).
   b. Manufacturer's Price Proposal (page 1, inclusive).
   c. Documentation submitted by Manufacturer prior to Notice of Award (pages 1 to 2, inclusive).
3. Request for Proposal
4. Manufacturer's Proposal
5. General Conditions (pages 1 to 17, inclusive).
6. Supplementary Conditions (pages 1 to 6, inclusive).
7. Performance bond (pages 1 to 2, inclusive).

8. Payment bond (pages 1 to 2, inclusive).
9. Addenda (numbers 1 to 2, inclusive).
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.

B. The documents listed in Section IX.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Section IX.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

Section X – Miscellaneous

A. **Terms.** Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

B. **Severability.** Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Manufacturer, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

C. **Manufacturer's Certifications.** Manufacturer certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Section X.C:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the proposal process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the proposal process or the execution of the Contract to the detriment of the City, (b) to establish Proposal or Contract prices at artificial non-competitive levels, or (c) to deprive the City of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Proposers, with or without the knowledge of the City, a purpose of which is to establish prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the proposal process or affect the execution of the Contract.

D. **Indemnification and Insurance.** Manufacturer shall save and hold the City harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused in whole or in part by errors, omissions or negligent acts of Manufacturer, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

Manufacturer shall at a minimum provide insurance of the types and coverages as stipulated in the General Conditions (Paragraph 4.02) and Supplementary Conditions. In addition, Manufacturer shall maintain sufficient coverage to protect the Equipment against all losses until the Equipment is unloaded, placed in its final location, tested, accepted by Owner, and transferred to the custody of the Design/Builder. In the event that the Equipment or any component thereof is lost, stolen, damaged or destroyed prior to transfer to the Design/Builder, the Manufacturer shall replace it at no cost to the Owner.

E. **Independent Contractor.** The relationship of the Manufacturer to the City will be that of an independent contractor. No employee or agent of the Manufacturer shall be considered an employee of the City.

F. **Compliance with Laws.** Manufacturer shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

G. **Non-Discrimination.** Manufacturer 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 hereto as Attachment A.

H. **Third Party Rights.** It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create with the public or any member thereof a third-party beneficiary relationship 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.

I. **No Arbitration**. The Manufacturer and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in proposal documents is deemed void.

J. **Governing Law.** This contract shall be interpreted according to the laws of the State of Kansas.

K. **Representative's Authority to Contract.** By signing this contract, the representative of the Manufacturer represents that he or she is duly authorized by the Manufacturer to execute this contract, and that the Manufacturer has agreed to be bound by all its provisions.

In **WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written.

The Effective Date of this Agreement shall be the date first written above.

CITY:	Manufacturer
	AIRGAS MID SOUTH, INC.
By:	By: [signature]
Title:	Title: PRESIDENT
	(If Manufacturer is a corporation, partnerships, or a joint venture, attach evidence of authority to sign.)
Attest:	Attest: Wanita Wahl
Title:	Title: Corp. Administrator
Approved as to Form:	
Title:	
Address for giving notices:	Address for giving notices: Airgas Mid South, Inc. 31 N. Peoria Tulsa, OK 74120
	License No.:
	(Where applicable)

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Supplemental Agreement for Services for the WRAPS Study (All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the supplemental agreement.

Background: On August 22, 2009, the City entered into an agreement with Geotechnical Services, Inc. (GSI) to assist the City in completing the development phase study of the Watershed Restoration Assessment Planning Strategy (WRAPS) grant funded by Kansas Department of Environmental Health (KDHE) and Environmental Protection Agency. The primary objectives of the study were:

1. Development and organization of the Wichita WRAPS Leadership Team;
2. Identification and prioritization of critical sub-watersheds within the Wichita WRAPS area;
3. Identification and prioritization of water resource management concerns and issues occurring within the critical sub-watersheds; and,
4. Development of a plan of work for completing watershed assessment and planning phases.

The fee was $39,500. Due to the complexities of developing a WRAPS program in an urban environment, increased work was performed to comprise a diverse Stakeholder Leadership Team (SLT) representative of the entire Wichita community The City did request that GSI provide additional meetings to educate the newly formed grassroots SLT about protecting watersheds. A supplemental agreement has been prepared for the additional work.

Analysis: The fee for the supplemental agreement is $3,941.25.

Financial Considerations: GSI's total fee including the supplemental agreement will be $43,441.25. KDHE WRAPS grant funds are available to cover these costs.

Goal Impact: This project addresses the Quality of Life goal by educating citizens on water pollution and conservation concepts to protect the City of Wichita's natural resources.

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.

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED AUGUST 24, 2009

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

GEOTECHNICAL SERVICES, INC

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated August 24, 2009) between the two parties covering engineering services to be provided by the ENGINEER to assist the CITY in developing watershed leadership team or teams to facilitate identification of water resource management issues important to watershed stakeholders, establish watershed management goals and prepare a watershed action plan which achieves identified watershed goals.

WHEREAS, 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 work that the CITY intends to perform and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Increased community outreach efforts to assure that a diverse watershed leadership team is established that is representative of the urban community. Additional work was needed to educate the grassroots team about the complexities of watersheds and assure a smooth transition from the City to the Watershed Restoration Assessment Planning Strategy Stakeholder Leadership Team.

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 **$ 3,941.25**

C. COMPLETION

The ENGINEER has completed the work and delivered the final report to the CITY on July 1, 2010.

EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. 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 _____, 2010.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, City Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

Geotechnical Services, Inc

_____
David Edwards, President

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Internet Crimes Against Children (ICAC) Grant and Interlocal Agreement

INITIATED BY: Wichita Police Department

AGENDA: Consent

Recommendation: Approve the continuation grant and Interlocal Agreement.

Background: The City of Wichita Police Department, Sedgwick County Sheriff's Office and the State Department of Social and Rehabilitation Services (SRS) 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. 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, and also vehicle, travel/training, equipment and supplies costs. The City of Wichita's portion of the 2010 Internet Crimes Against Children (ICAC) grant award is $91,245 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 $91,245 for a twelve month period ending March 31, 2011. No local grant match is required.

Goal Impact: Provide a Safe and Secure Community by funding a position for the Exploited and Missing Child Unit and helping to educate and ensure the safety of children in our community.

Legal Considerations: The Interlocal 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 $91,245 and the Interlocal Agreement between the City of Wichita and Sedgwick County and authorize the necessary signatures.

Attachments: Interlocal Agreement between the City of Wichita and Sedgwick County.

GMS APPLICATION NUMBER _2010-50329-KS-MC_
OJJDP Cooperative Agreement Number 2010-MC-CX-K029

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF WICHITA, KANSAS AND SEDGWICK COUNTY, KANSAS

2010 Kansas Internet Crimes Against Children (ICAC) Task Force Award

This Agreement is made and entered into this____day of_____, 2010, 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 $91,245.00; and

WHEREAS, the COUNTY agrees to provide the CITY $91,245.00 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 $ 91,245.00 of ICAC funds.

Section 2.

CITY agrees to use $ 91,245.00 for the staff and vehicle costs related to the Internet Crimes Against Children Project until 3-31-2011.

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	SEDGWICK COUNTY, KANSAS
_____	_____
CARL BREWER, Mayor	KARL PETERJOHN, Chairman Commissioner, 4th District
ATTEST:	ATTEST:
_____	_____
KAREN SUBLETT, City Clerk	KELLY ARNOLD, County Clerk
APPROVED AS TO FORM:	APPROVE AS TO FORM:
_____	_____
GARY REBENSTORF, City Attorney	OFFICE OF COUNTY COUNSELOR

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Agreement for Design Services for Storm Water Sewer and Paving Improvements in North Elementary School Addition (north of 29th Street North, east of Seneca) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the agreement.

Background: The City Council approved the storm water sewer and paving improvements in North Elementary School Addition on July 27, 2010.

Analysis: The proposed agreement between the City and Ruggles & Bohm, P.A. provides for the design of bond financed improvements consisting of storm water sewer and paving in North Elementary School Addition. Per Administrative Regulation 1.10, staff recommends that Ruggles & Bohm be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Ruggles & Bohm will be on a lump sum basis of $37,700 and will be paid by special assessments.

Goal Impact: This agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of storm water sewer and paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

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

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

Attachments: Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

CARL BARBEE ADDITION, HARMRICK ADDITION, NORTH ELEMENTARY SCHOOL ADDITION, WALDEN GARDENS ADDITION & WALNUT GROVE ADDITION

THIS AGREEMENT, made this _____ day of _____, 2010, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

STORM WATER SEWER NO. 656 serving Lot 1, Block 1, North Elementary School Addition (north of 29th Street North, east of Seneca) (Project No. 468 84678).

33RD STREET NORTH from the west line of Carl Barbee Addition to the west line of Arkansas Avenue; **MASCOT** from the south line of North Elementary School Addition to the south line of 33rd Street South; **33RD STREET** adjacent to North Elementary School Addition to serve as a pickup and drop off area for the School; sidewalk on the south side of 33rd Street from west line of Arkansas to the east line of Mascot (north of 29th Street North, east of Seneca) (Project No. 472 84909).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Carl Barbee, Harmrick, North Elementary School, Walden Gardens & Walnut Grove Additions and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold 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 ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. 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, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than $500,000.00 subject to a deductible of $10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - $500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than $500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.
D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 468 84678	**$14,900.00**
Project No. 472 84909	**$22,800.00**
TOTAL	**$37,700.00**

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
   1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
   2. Additional design services not covered by the scope of this agreement.
   3. Construction staking, material testing, inspection and administration related to the PROJECT.
   4. A major change in the scope of services for the PROJECT.

   If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. 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 parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof 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.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, Mayor

SEAL:

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

RUGGLES & BOHM, P.A.

_____
(Name & Title)

ATTEST:

_____

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.
3. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
8. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.

9. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
10. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
11. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
12. The ENGINEER shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
14. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
    a. Plan Development for the storm water improvements by **September 1, 2010**.
       (Project No. 468 84678).
    b. Plan Development for the paving improvements by **September 1, 2010**.
       (Project No. 472 84909).

Attachment No. 1 to Exhibit "A" – Scope of Services

Plan Submittal

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

Paper plan submittals for KDOT projects (i.e. Field Check, ULCC, Final Check, etc.) will not change and the cover sheet mylar will be required for all projects for signature purposes. Projects that have water lines incorporated into the project are required to have those pages in a mylar format. The complete project must be submitted in a scalable .pdf format.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Environmental Services
1900 E. 9th St. North
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Supplemental Agreement for Heartland Preparedness Center Design Services (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the supplemental agreement.

Background: Beginning in 2002, the City of Wichita engaged in a partnership with Sedgwick County, the Kansas National Guard and the Marine Corp Reserve to locate a joint military training center in Wichita to be designated as the Heartland Preparedness Center. Federal grants are funding the construction of the facility. The City and County are sharing the cost for drainage improvements, and extending utility lines and paving to serve the site. On June 6, 2009, the City entered into an agreement with GLMV Architecture, Inc. to design the infrastructure for the Center. The fee is $322,910. As the design process was nearing completion, the scope of services required amendment. Some items of work were deleted and other items of work added per attachment. A supplemental design agreement has been prepared for the cost of the additional work.

Analysis: The Heartland facility will support consolidated elements of the Kansas Army National Guard and the Marine Corp Reserve, including eight distinct units and over 670 personnel on a 30 acre campus near the I-135 and K-96 Freeways.

Financial Considerations: The supplemental design fee is $28,000, for a total design fee of $350,910. The cost is shared equally by the City and County. The $175,455 City cost is available in the approved project budget and is funded by General Obligation bonds.

Goal Impact: This project addresses the Safe and Secure Community, and Efficient Infrastructure goals by providing a facility for National Guard, Marine Reserves and City/County training.

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.

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED JUNE 6, 2009

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

GLMV ARCHITECTURE, INC.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated June 6,2009) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of the **Infrastructure Improvements to the Heartland Preparedness Center.**

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:

1. Additional Design Services to be provided the ENGINEER:
   a. Alta Survey #1 and #2-Alta surveys provided on the two properties subject to the land swap agreement between the City of Wichita and Union Pacific Railroad. This survey was a requirement by Union Pacific Union Railroad as outlined in the Agreement with the City of Wichita. Additional easement releases were associated with Alta Survey #1.
   b. Additional Design Survey-Performed additional topographical survey due to the waterline alignment adjustment/relocation. This was the resolution of a conflict with the Kansas Historical Society finding.
   c. Alternate Design (Waterline)-In addition to the survey for the revised waterline alignment, the ENGINEER processed the survey, recreated the surface model and made the plan revisions for adjusted/relocated waterline. The ENGINEER

also provided revised plan sheets for waterline alignment adjusted/relocation along the north edge of the project at the request of the City of Wichita staff to avoid additional site clearing.

d. Public Right-of-Way and Easement Vacations-The ENGINEER prepared legal descriptions for two public right-of-way vacates and one easement vacate for the subject properties. This work included filing fees and property research.

e. Alternate Design (Retaining Wall)-The ENGINNER to provide an alternate design for T-Wall Sections in addition to the cast-in-place design based on City of Wichita staff recommendations.

f. Telecommunications Conduit-The ENGINEER to provide design/layout for portions of conduit extending the length of the access road, from the east end of the National Guard site out to Hillside entrance.

2. Design Services per original Contract that were not to be provided by the ENGINEER:

a. Lift Station- The ENGINEER shall NOT provide design of the lift station on site per original agreement.

b. Site Electrical-The ENGINEER will perform design of lighting at underpass, but NOT along access road per original agreement.

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 as Follows:

1. Additional Design Services to be provided the ENGINEER:

a.	Alta Survey #1 and #2	$ 8,000
b.	Additional Design Survey	$ 5,000
c.	Alternate Design (Waterline)	$ 8,000
d.	Public Right-of-Way and Easement Vacations	$10,000
e.	Alternate Design (Retaining Wall)	$10,000
f.	Telecommunications Conduit	$ 3,000
	Subtotal	$44,000

2. Design Services per original Contract that were not to be provided by GLMV:

a.	Lift Station	-$ 12,000
b.	Site Electrical	-$ 4,000
	Subtotal	-$ 16,000

Total Contract cost modification: $28,000

C. Completion

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the City by November 1, 2010; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. 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 _____, 2010.

BY ACTION OF CITY COUNCIL

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

GLMV Architecture Inc.

_____
Mike Kandt AIA, CSI, Senior Vice President

ATTEST:

_____

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Agreement for Design Services for 20” Force Main along 135th Street West (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Approve the agreement.

Background: The Capital Improvement Program (CIP) includes funding for a 20” force main connecting the Main Pump Station (21st and 135th West) and the Cowskin Creek Water Quality Reclamation Facility. A Request for Proposals was issued on June 23, 2010, with responses received from six consultants. On July 29, 2010, the Staff Screening and Selection Committee interviewed three consultants (Baughman Company, Professional Engineering Consultants, and Young & Associates) for designing the 20” force main. The Staff Screening and Selection Committee recommended Baughman to design the 20” force main based upon their specific approach to the project, including options for moving the new force main out of the roadway, thus potentially saving pavement replacement costs.

Analysis: The pump station is currently connected to the plant by a 14” force main. Over the years this force main has reached capacity due to the population growth in the northwest part of the City, and cannot be cleaned without a parallel line for bypassing the flow. Wet weather flows tax the capacity of the existing force main and cause water to backup into the collection system upstream of the pump station. The project proposes to construct a parallel 20” force main along 135th Street that will eliminate the capacity limitations of the smaller line, as well as allowing each line to be periodically cleaned while the other is in service.

Financial Considerations: Payment to Baughman will be on a lump sum basis of $55,400, paid by the Water Utility CIP.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving sanitary sewer system capacity.

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

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

Attachments: Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

20" SANITARY SEWER FORCE MAIN IN 135TH STREET WEST FROM THE
PUMP STATION AT 21ST STREET NORTH TO THE WATER RECLAMATION FACILITY

THIS AGREEMENT, made this _____ day of _____, 2010, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

20" SANITARY SEWER FORCE MAIN IN 135TH STREET WEST FROM THE PUMP STATION AT 21ST STREET NORTH TO THE WATER RECLAMATION FACILITY (Project No. 468 84699)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing a 20" sanitary sewer force main in 135th Street West and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold 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 ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. 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, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than $500,000.00 subject to a deductible of $10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - $500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than $500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written

notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 468 84699 **$55,400.00**

Accumulated partial payments for the PROJECT shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
   1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
   2. Additional design services not covered by the scope of this agreement.
   3. Construction staking, material testing, inspection and administration related to the PROJECT.
   4. A major change in the scope of services for the PROJECT.

   If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. 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 parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof 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.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

_____

Carl Brewer, Mayor

SEAL:

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

_____

N. Brent Wooten, President

ATTEST:

_____

SCOPE OF SERVICES

20" SANITARY SEWER FORCE MAIN IN 135TH STREET WEST FROM THE PUMP STATION AT 21ST STREET NORTH TO THE WATER RECLAMATION FACILITY

(Project No. 468 84699)

The ENGINEER shall design a 20" sanitary sewer force main to parallel the existing 14" force main in 135th Street from the pump station at 21st and 135th to the sewage treatment plant north of 37th Street. A 20-inch stub was constructed at the pump station for future extension. The ENGINEER will coordinate with the Water Utilities Department (System Planning and Sewer Treatment) for exact location. The project shall consist of approximately 12,000 lf of pipe.

The ENGINEER shall also design for the replacement of pavement in 135th Street. This will include removal of the existing pavement as well as a new sub-grade and pavement section to match the existing in the northbound lane and identification and complete replacement of all failing sections in the southbound lane, as well as a 2" mill and overlay on the remaining southbound pavement. The design will also include appropriate traffic control and coordination with the proper agencies regarding necessary road closures.

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per Attachment No. 1.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.
3. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes

and other pertinent project mapping records are to be submitted per Attachment No. 1. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.

7. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
8. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
9. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
10. All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
11. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
12. The ENGINEER shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.
13. Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.
14. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
    a. Plan Development for the sewer improvements by **December 23, 2010**.
       (Project No. 468 84699).

Attachment No. 1 to Exhibit "A" – Scope of Services

Plan Submittal

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

Paper plan submittals for KDOT projects (i.e. Field Check, ULCC, Final Check, etc.) will not change and the cover sheet mylar will be required for all projects for signature purposes. Projects that have water lines incorporated into the project are required to have those pages in a mylar format. The complete project must be submitted in a scalable .pdf format.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Environmental Services
1900 E. 9th St. North
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

CITY OF WICHITA

Wichita Water Utilities

INTEROFFICE MEMORANDUM

TO: Robert Layton, City Manager

FROM: Christopher M. Carrier, P.E.
Interim Utilities Director

SUBJECT: Emergency CIP Justification Request

DATE: March 23, 2010

Nature of Emergency:
There are capacity limitations of the 14" force main connecting the Main Pump Station (21st and 135th West) and the Cowskin Creek Water Quality Reclamation Facility. Wet weather flows tax the capacity of the existing force main and cause water to backup into the collection system up stream of the pump station.

Technical Violations:
The capacity limitations imposed by the force main have caused water to backup into homes connected to the gravity main upstream of the pump station during period of wet weather. A backup into a home is considered a sanitary sewer overflow by the Kansas Department of Health and Environment.

Impact of Violations:
Regularly occurring overflows can lead to penalties and fines imposed by the State and EPA. Recurring overflows will be viewed as neglect and may also result in a consent decree by the State or EPA ordering the Utility to perform remedial activity to prevent repeated overflow occurrences.

Project Name:
Main Pump Station 20" force main addition

Project Description:
The pump station is currently connected to the plant by a 14" force main. Over the years this force main has reached capacity due to the population growth in the northwest part of the City. The project proposes to construct a parallel 20" force main along 135th street. This force main will eliminate the capacity limitations of the smaller line

Cost:
The Utility has budgeted $3,000,000 in 2010 to complete this project. This project is included in the current 2009 – 2018 CIP Budget approved by Council.

Alternate Option:
The only alternative in this case is to do nothing. The length of the force main and the volume of water prevent bypass pumping from being effective.

Cost:
The cost associated with doing nothing will be fines and penalties for environmental non compliance and settlements for legal actions taken by home owners for endangerment and property damage.

Other Concerns:
- Media involvement
- Law suits
- Public health risk
- Property damage

APPROVED:

Robert Layton, City Manager

5/5/10
Date

Agenda Item No. XII-8d

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Agreement for Design Services for Paving Improvements in Goddard School Addition (south of Maple, east of 167th Street West) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the agreement.

Background: The City Council approved the paving improvements in Goddard School Addition on June 14, 2005.

Analysis: The proposed agreement between the City and Professional Engineering Consultants, P.A. (PEC) provides for the design of bond financed improvements consisting of paving in Goddard School Addition. Per Administrative Regulation 1.10, staff recommends that PEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to PEC will be on a lump sum basis of $35,500 and will be paid by special assessments.

Goal Impact: This agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

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

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

Attachments: Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

for

167TH STREET WEST TURN LANE BETWEEN KELLOGG AND MAPLE

THIS AGREEMENT, made this _____ day of _____, 2010, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PROFESSIONAL ENGINEERING CONSULTANTS, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

167TH STREET WEST TURN LANE BETWEEN KELLOGG AND MAPLE
(Project No. 472 84243)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements on 167th Street West and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
D. To save and hold 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 ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. 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, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than $500,000.00 subject to a deductible of $10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - $500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than $500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum payment plus partials made on the basis of the lump sum fee amount specified below:

472 84243 **$35,000.00**

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks. The major tasks and accumulated partial payment amounts are listed below:
Accumulated partial payments shall not exceed $17,500.00 (fifty percent of the maximum fee payment amount) until field check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed $24,500.00 (seventy percent of the maximum fee payment amount) until office check plans have been received and approved by the City Engineer for distribution to utility companies. Accumulated partial payments shall not exceed $28,000.00 (eighty percent of the maximum fee payment amount) until final utility plans allowing for utility relocations or adjustments for the PROJECT have been received and approved by the City Engineer for distribution to the utilities.
Accumulated partial payments for the PROJECT shall be based on milestones in Exhibit A and shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
   1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
   2. Additional design services not covered by the scope of this agreement.
   3. Construction staking, material testing, inspection and administration related to the PROJECT.
   4. A major change in the scope of services for the PROJECT.
   If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. 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 parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all

claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof 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.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

CITY OF WICHITA

_____

Carl Brewer, Mayor

SEAL:

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

_____

(Name & Title)

ATTEST:

_____

Exhibit "A"

SCOPE OF SERVICES

167TH ST WEST TURN LANE BETWEEN KELLOGG AND MAPLE
(Project No. 472 84243)

167TH ST WEST TURN LANE BETWEEN KELLOGG AND MAPLE - The ENGINEER shall design improvements for a center turn lane with the widening to occur on the east side of the existing roadway from approximately 600' north to 3200' north of Kellogg . The design is to tie into the intersection improvements at Kellogg being designed by KDOT. The design will include coordinating utility relocations and right-of-way requirements. The ENGINEER shall fully understand all requirements of the attached Scope of Services, and the final design fee shall reflect comprehension of these requirements. This includes coordination of utility relocation work directly with the utility companies, from project inception through construction.

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a NOI prior to bidding; site-specific erosion control plan; and standard BMP detail sheets per Attachment No. 1.

Associated improvements as part of these projects will include permanent traffic signalization system improvements (if required), permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing (when applicable), sidewalk (when required), identification of additional right-of-way (if required) and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved.

In addition, the ENGINEER will notify the City Archaeologist, at 316-978-3195 prior to beginning work on this project.

In connection with the services to be provided, the ENGINEER shall:

A. <u>PHASE I - PRELIMINARY CONCEPT DEVELOPMENT</u>

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation

of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.
2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the City Water Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Bridges. Perform initial and keep current the inspection/inventory and analysis for completion/update of the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT, for all bridges within the project limits. ENGINEER shall also provide the CITY with a new S. I. & A. upon completion of the bridge construction, along with the Design Load Ratings ("Load Factor" method) and pictures, with one copy submitted to KDOT Bridge Engineer.
9. Landscape Plans. When the design has fulfilled the program requirements, submit three (3) sets of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit two (2) sets to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment.
10. Design Council. ENGINEER shall meet with the City's Design Council, to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design devel-

opment, the PROJECT should be presented to the Design Council for review.

B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY and as agreed upon at Field Check and/or Office Check Review.

1. Design Council. ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise.
   (It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)
2. ULCC. The ENGINEER shall prepare Utility Check plans and schedule with ULCC subcommittee for review as early as practical, usually prior to Field Check plan stage. A second ULCC review should be scheduled near Office Check plan stage. Utility coordination procedures shall conform to the current policy of the City Engineer. Plans shall be submitted per item 3/b.
3. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and three (3) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:
   (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans. Coordination of utilities and pipelines for the PROJECT by the ENGINEER shall conform to current adopted policies of the City Engineer for Category II projects.
   (b) Submit fifteen (15) full-size, colored master sets of field check plans to the City Engineer's office for distribution to utility companies. **Plans will clearly identify specific utility company facilities, and not just "gas" or "fiber optic", for example.** The ENGINEER shall include a conflict list for each utility, as provided by the R/W & Utility Coordinator. Submit additional sets of field check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.
   The ENGINEER will be responsible for identification of utility conflicts and coordination of resolving those conflicts throughout the course of design and construction.
   (c) Soils and Foundation Investigations. The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita if not included in the ENGINEER'S fee estimate. However, all bridge projects shall include the cost of soils and boring investigations in the ENGINEER'S fee.

(d) Prepare right-of-way and temporary construction easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

(e) Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

4. Office Check Plans. When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:

(a) Submit three (3) sets of office check plans to the CITY and, if required, two (2) sets of office check plans to KDOT, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and with KDOT when required.

(b) Identify all known utility conflicts. ENGINEER shall meet with utility company representatives as required to review the PROJECT design and interpret engineering drawings. Utility coordination procedures shall conform to current policy of the City Engineer.

(c) Submit fifteen (15) full-size, colored master sets of office check plans to the City Engineer's office for distribution to utility companies. **Plans will clearly identify specific utility company facilities, and not just "gas" or "fiber optic", for example**. The ENGINEER shall include a conflict list for each utility, as provided by the R/W & Utility Coordinator. Submit additional sets of office check plans as required for utility and pipeline companies who are not members of the Utility Location Coordination Council.

(d) Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."

(e) Permits. The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT.

5. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:

(a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.

(b) Final Plan Submittals.

a. Electronic versions of the approved final plans for all projects need to be submit-

ted on CD or DVD in both AutoCAD and .pdf format (.dwg format is preferred, .dxf is acceptable). Text fonts other than standard AutoCAD fonts are to be included with drawing files. Pdf files should be scalable to 22”x36” and oriented right side up.

b. Two 11”x17” half-scale hardcopies of all plans are required. .

c. Mylar plans are required for all water projects and any plans that incorporate water line improvements (both CITY and KDOT). Mylar cover sheet only is required for all other KDOT/Federally funded projects for the signature purposes.

d. Field notes, other pertinent project mapping records, supplemental specifications, special provisions and cost estimates are to be provided to the City Engineer for the taking of bids as appropriate for the CITY and/or KDOT.

(c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.

(d) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. **The list of encroachments should reflect conditions at the time of final plan submittal.**

(d) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to CITY or KDOT standards as applicable.

(e) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.

(f) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See attachment No. 2 for required coordinate information.

(g) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.

(h) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.

6. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.

7. Post Letting.

(a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.

(b) The ENGINEER shall meet with effected property owners, along with City staff, at a preconstruction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.

(c) The Engineer shall complete permanent monumentation of all new R/W, complete and submit all necessary legal documentation for same.

8. Project Milestone. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specification and estimates to the CITY within the time allotted for the PROJECT as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY of other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

(a) Concept plans are due **July 2010**

(b) Office Check plans are due **August 2010**

(c) Final plans are due **September 2010**

Attachment No. 1 to Exhibit "A" – CIP Scope of Services

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Environmental Services
1900 E. 9th St. North
Wichita, KS 67214

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

Attachment No. 2 to Exhibit "A" – CIP Scope of Services

Required Plan Coordinate Information

Arterial Street Projects & Infill (Existing Neighborhoods)

SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- center of manholes

WATER LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release

STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- center, inside face of curb inlets – Type 1 and Type 1A; center, at high edge of curb inlets – Type 2; CL of street, normal to inlet coordinate
- for skewed inlets typically in intersection radii, or not parallel to baseline – center, inside face of inlet; 15 ft/4 m offset in each direction, to center of inlet, along inside face line extended
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.

In addition to the required coordinate information, **t**he following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial streets
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Golf Course Pro Shop Sales Service Contract. (District IV)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the contract.

Background: The City currently operates five municipal golf courses. As part of the daily operations at each of these golf facilities, the City leases Pro Shop space to the designated golf professional in a separate contract. The attached contract is similar to the four that the City Council approved on December 16, 2008.

Analysis: It is the intent of the Department of Park and Recreation to have the lessee responsible for stocking all golf-related sale items at these facilities, thereby alleviating the City liability for golf apparel and equipment. The lessee will lease floor space at the clubhouses for five percent of their gross sales including lessons. The proposed contract agreement includes terms through December 31, 2011. The contract is intended for the new golf professional at Tex Consolver Golf Course.

Financial Considerations: The contract will provide a modest amount of additional revenue for the Golf Fund and reduce expenditures for golf-related inventory.

Goal Impact: This action will directly impact the Quality of Life goal by providing excellent customer service and satisfying citizens by providing the pro shop sales services they expect at City golf courses.

Legal Considerations: The Law Department has reviewed and approved this contract as to form.

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

Attachments: Contract

AGREEMENT

FOR

GOLF COURSE PRO SHOP SALES SERVICES

AT

TEX CONSOLVER GOLF COURSE

THIS AGREEMENT made and entered into September 14, 2010, between the City of Wichita, Kansas (hereinafter referred to as "City") and Chad Mullens (hereinafter referred to as Lessee) pertaining to the TEX CONSOLVER GOLF COURSE PRO SHOP, 1931 South Tyler Road, Wichita, Kansas (hereinafter referred to as "Pro Shop").

WITNESSETH:

WHEREAS, The City of Wichita is authorized to contract for services to provide golf equipment sales; and

WHEREAS, Lessee has demonstrated ability in furnishing golf course pro shop sales service to golf course patrons which would be of value to the City; and

WHEREAS, it would be of mutual benefit to the parties that certain rights, privileges, and covenants be granted by the City to the Lessee in exchange for the consideration to be paid and services to be rendered by the Lessee for said rights, privileges, and covenants as are hereinafter set forth;

NOW, THEREFORE, in consideration of the rights and obligations established in this Agreement, the City grants to Lessee the exclusive privilege of operating the pro shop sales business at the Golf Course and Lessee agrees to provide golf course pro shop sales services to customers of the Pro Shop, all in accordance with the terms of this Agreement:

1. Term. The term of this Agreement shall be from September 14, 2010 to December 31, 2011.

2. Pro Shop Operator. Lessee is designated as the Pro Shop Operator. Golf Course Pro Shop sales services shall include, but not be limited to, merchandising a complete inventory of golf equipment, golf equipment repair, club fitting, teaching and training and all other services ordinarily rendered

and provided by the Pro Shop at a well-conducted golf course. Lessee shall bear the economic risks of conducting the business of the Pro Shop, including all costs of inventory.

3. Leased Premises. The City shall lease to, and Lessee shall have use of that portion of the Clubhouse designated as the pro shop, club repair shop, and club storage room. Lessee agrees that the Leased Premises shall be used only for the functions and activities for which they were designated as determined by the City. Further, Lessee agrees that the Leased Premises shall not be used for any illegal or ultra hazardous activities. In the event that any portion of the Leased Premises becomes subject to state *ad valorem* property taxation as a result of Lessee's rights or use of the Leased Premises under this Agreement, Lessee shall be obligated to pay all such property taxes.

This Agreement is intended to set forth contractual lease conditions on the use of the City's facilities. It further sets forth guidance and expectations for the performance of services. The provisions of this Agreement are to be interpreted as granting the Lessee the right to exercise independent judgment and the right to use his or her own methods in the provision of services subject only to the requirements of this Agreement on the results and work product sought by the City and to be reflected in the services provided to the public.

4. Hours of Operation. Lessee agrees to open the Pro Shop for business each day in accordance with the schedule of days and hours as established for the clubhouse.

5. Operating Standards and Maintenance. Lessee agrees to maintain the Leased Premises in a clean, sanitary, and aesthetically attractive condition. Lessee agrees to do no remodeling nor install any permanent fixtures or additions to the Leased Premises without first submitting a detailed written request and plan and obtaining written approval from the City.

6. Fees and Charges. Lessee agrees that all transactions involving Pro Shop sales and services, including lessons shall be recorded through the accounting system provided by the City and be deposited in City accounts daily. Lessee shall account for such transactions under the procedures set forth in the Agreement and as may be further directed in writing by the City.

The City shall reimburse to Lessee all fees, charges and income received from the provision of services and sale of goods under this Agreement on a weekly basis. Lessee shall remit to the City, as a lease payment, 5% of all gross sales excluding state sales taxes on a monthly basis. Lessee shall establish all fees and charges for goods and services subject to the right of the City to review such fees and charges for reasonableness.

7. Sale of Merchandise. Lessee is granted the exclusive right to sell golf-related equipment, apparel, and other merchandise at the Golf Course. Lessee shall assume any and all business risks and liability in the sale of such merchandise and shall be entitled to retain all income from such sale, subject only to the lease agreement and reporting requirements of this Agreement. All sales shall be conducted in accordance with all local, state, and Federal laws and regulations and shall be in conformity with the guidelines of the Policy Manual.

8. Sales Tax. Lessee agrees to establish a sole proprietorship, corporation, or LLC and establish a tax identification number with the State of Kansas. The Lessee agrees to pay all sales tax associated with all Pro Shop sales and submit to the City on a quarterly basis record of said payment.

9. Audit Provisions. Lessee agrees to keep complete and accurate books and records of all receipts of fees and charges and all income and expenses of all items of merchandise and professional services covered by this Agreement. The City or its authorized representative shall have the right to periodically audit the books and records of the Lessee to verify that fees have been correctly computed and paid and reports of income and expenditure correctly made. The Lessee agrees to reimburse the City for the reasonable costs of any such audit should it disclose that the Lessee has paid 98% or less of the payments due to the City for any year or if the audit discloses that reports of income and expenditures are substantially inaccurate or misleading according to generally accepted accounting standards, procedures, and principles. If the Lessee disputes the audit findings of the City, the Lessee may request a review of part or all of the audit by a third party mutually agreeable to the City and the Lessee. If such review determines the audit of the City to

be substantially in error, the City shall pay the cost of such review, otherwise the Lessee shall pay for the cost of such review. In the event that payments are found to be incorrect or reports inaccurate, the Lessee shall provide appropriate true-up payments within 15 days or corrected reports within 30 days of the deficiency.

10. Federal and State Income, Self-Employment and Payroll Taxes. Lessee shall be responsible for all federal and state taxes, including all payroll taxes, F.I.C.A., F.U.T.A., self-employment tax, estimated tax payments and/or withholding due to the federal or any state government in relation to income derived by Lessee under this agreement and any compensation provided by Lessee to its employees in connection with the performance of this Agreement.

11. Contract Evaluation. The parties hereto agree that once each year, or more often if deemed necessary in the opinion of City, City or its designated representative shall complete a performance review concerning the performance of Lessee under this Agreement.

12. Insurance. Lessee shall, at his/her own expense, procure and at all times during the terms of this lease and extensions thereof maintain insurance with one or more companies permitted to do business in the State of Kansas, as follows:

    (a) Comprehensive general liability insurance including death, bodily injury, and property damage coverage with respect to any suit or claim of any kind or nature arising out of the use of the Pro Shop or the consumption or use of any goods sold or rented under the provisions of this Agreement, which shall name the City of Wichita as an additional insured and shall have limits of not less than $500,000 per occurrence, or such other amount as is established by the Kansas Legislature as the maximum amount for which a municipality can be held liable under the Kansas Tort Claims Act. Such insurance shall include (a) broad form contractual liability insurance and (b) products and completed operations liability insurance.

    (b) Lessee shall keep the contents of the Leased Premises and personal property of the lessee insured at all times against loss or damage by theft, fire, lightning and other risks

covered by broadest form extended coverage insurance endorsement then in use in the State of Kansas in an amount to cover the loss.

(c) Lessee and City waive all rights against each other for damage caused by fire or other perils to the extent covered by insurance obtained pursuant to this subparagraph or any other property insurance purchased by either party.

(d) All policies and certificates of renewal covering the aforesaid insurance shall be subject to the approval of the City. Copies of all such insurance policies shall be filed with the City and shall be endorsed to require the insurer to furnish the City thirty (30) days' prior written notice of any cancellation of or material changes in such policies.

Lessee may at his/her own expense, carry such other insurance in his/her own name, as he/she may deem desirable. Lessee must report to the City in writing, using a report form furnished by the City, all incidents of injury or property damage occurring as a result of pro shop sales and service activity.

13. Indemnity and Hold Harmless. Lessee shall protect, indemnify, and save harmless the City from and against any and all losses, damages, and claims, for personal injury, property damage, or otherwise which may be incurred by the City or asserted against it, arising out of the use and occupancy of the Pro Shop by Lessee, his/her sub/lessees, employees or permittees, or the consumption or use of any goods sold or rented under the provisions of this Agreement, or in any manner arising out of a breach or default in the performance of the Agreement by Lessee whether such losses, damages, or claims shall occur on or outside of the Leased Premises, except to the extent caused by the negligence of the City.

Further, Lessee shall protect and indemnify the City against, and shall reimburse the City for, all liabilities incurred by the City as a result, in whole or in part, of Lessee's failure to perform its obligations with respect to insurance or payment of taxes, as well as any tax liabilities (including related interest and penalties) that may be incurred by the City if Lessee is required to be reclassified as an "employee" of the City in the performance of Lessee's services under this

Agreement, for federal or state tax purposes. Lessee also agrees to execute appropriate forms to allow tax auditors to disclose to the City, pursuant to 26 U.S.C. section 6103(c) or (e), the Lessee's tax reporting of income earned under this agreement for any period in which a classification issue is raised in a tax audit of the City's payroll tax matters.

The Lessee shall investigate and submit to the City a written report on any claims for damages that may be reported to the Lessee by individuals or the City. Such written report shall conform to the requirements of the Policy Manual.

14. Default and Termination. The parties agree that the agreement may be terminated or amended at any time upon their mutual agreement.

In the event of Lessee's failure to comply with any of the terms, covenants, or conditions of this Agreement, other than as hereinafter provided for failure of payment and for accounting of funds lawfully due the City, City may cancel this contract upon sixty (60) days' written notice by certified mail in the event of default by Lessee continuing for more than fifteen (15) days after written notice by certified mail of the existence of such event of default.

In the event Lessee fails to make a proper accounting of or fails to make any payment of funds to City as lawfully required, City may at its option cancel this Agreement upon five (5) days' written notice to Professional. Lessee shall have the right to cure such default within the five days unless the default involves a crime, dishonesty, or intentional misconduct by Professional or by Professional's agents, which should have been within the reasonable knowledge of Lessee. Provided, however, if the Lessee disputes the City's determination as to the amount of an accounting or payment, the Lessee may make such accounting or payment to the City under protest. In the event that it is determined that the City was in error, the City shall return any such funds erroneously collected together with interest at the rate earned on City general fund deposits.

In the event of bankruptcy (voluntary or involuntary), assignment by Lessee for the benefit of creditors, or receivership of Lessee's assets, this Agreement shall automatically and immediately be terminated except as to Lessee's liability for sums then due City.

Additionally, the right is reserved to either party to terminate this agreement at any time, at will and for any reason, upon one hundred and twenty (120) days' written notice to the other.

15. Assignment. This Agreement is for services personal to the Lessee and shall not be assigned nor sold nor will the premises be sublet in whole or in part without the approval of the City, which approval may be denied without cause.

16. Notice. All notices provided for in this Agreement shall be in writing and mailed by registered or certified mail or by express carrier such as Federal Express, postage prepaid, to the following addresses until such time as written notice of a change in address is given the other party:

City:	Lessee:
Mr. Don Harrison Golf Course Manager City Hall 455 N. Main Wichita, KS 67202	Mr. Chad Mullens Tex Consolver Golf Course 1931 S. Tyler Rd. Wichita, KS 67209

17. Nondiscrimination. Lessee will not permit discrimination against any person in the use of occupancy of the Leased Premises on the grounds of race, color, sex, religion, national origin, ancestry, physical handicap, or age, except where age is a bona fide occupational qualification, and in addition, Lessee shall comply with City's Affirmative Action Program as set forth in Exhibit "A" attached hereto.

18. Kansas Law to Govern. This Agreement is entered into under the laws of the State of Kansas.

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

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

By _____
Chad Mullens, “Lessee”

Agenda Item No. XII-8a

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: East Kellogg, Cypress to 127th Street East (Project I) –Design Supplemental Agreement No. 1. (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve Supplemental Agreement No. 1.

Background: On December 4, 2007, the City Council entered into an agreement with Parsons Brinkerhoff (PB) to design improvements to east Kellogg from Cypress to 127th Street. The contract amount is $6,975,601. Under the direction of City staff, the consultant was directed to explore yet another option that would eliminate the need for traffic exiting Kellogg to stop for a signal at the KTA. Development of a free-flowing concept was successful and approved by the City Council on August 3rd, 2010.

Analysis: The original agreement for professional services, dated December 4, 2007, provided a mechanism for additional work. Supplemental No. 0A provided for additional services to refine the design beyond the original agreement. Supplemental No. 1 continues that effort. Supplemental Agreement No. 1 with PB has been prepared to authorize the additional services required for temporary signalization improvements at 159th , the development of the various concepts at KTA/Webb, additional engineering to accommodate adjacent property owners, and additional aesthetic development.

Financial Considerations: The total cost of Supplemental Agreement No. 1 is $759,643. This will bring the total contract with PB to $ 8,006,537. The proposed total design budget is $8,322,540. Funding is available within the East Kellogg Project budget, funded by the local sales tax.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving east-west traffic flow and safety.

Legal Considerations: Supplemental Agreement No. 1 and amending ordinance have been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve Supplemental Agreement No. 1, increase the budget, place the ordinance on first reading and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 1 and amending ordinance.

132019

Published in the Wichita Eagle on September 24, 2010

ORDINANCE NO. 48-835

AN ORDINANCE AMENDING ORDINANCE NO. **48-634** OF THE CITY OF WICHITA, KANSAS DECLARING **KELLOGG, BETWEEN CYPRESS AND 127TH STREET EAST (472-84615)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

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

SECTION 1. SECTION 1 of Ordinance No. **48-634** is hereby amended to read as follows:

"SECTION 1. SECTION 3 of Ordinance No. **47-706** is hereby amended to read as follows:

SECTION 3. The cost of the above described improvements is estimated to be **Eight Million Four Hundred Eighty-Seven Thousand Thirty-Seven Dollars ($8,487,037)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689."

SECTION 2. The original SECTION 1 of Ordinance No. **48-634** is hereby repealed.

SECTION 3. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the Governing body of the City of Wichita, Kansas this 21st day of September.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary Rebenstorf
Director of Law

SUPPLEMENTAL AGREEMENT

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED DECEMBER 4, 2007

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

PB AMERICAS, INC.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated December 4, 2007) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to the **EAST KELLOGG IMPROVEMENTS (US-54) FROM CYPRESS TO 127TH**.

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:

East Kellogg Improvements (US-54) from Cypress to 127th Street
(Project No. 472 84615)

See Exhibit "A"

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 **$759,642.83.**

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by **See Exhibit "A"**;
EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. 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 _____, 2010.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, City Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary Rebenstorf, Director of Law

PB AMERICAS, INC.

_____
Raja Govindaswamy, PE, Vice President

ATTEST:

_____

Exhibit "A" to Supplement 1 – Additional Scope of Services

Project I: East Kellogg Improvements (US-54) from Cypress to 127th Street

The scope of services as described below are in addition to Exhibit "A" of the Agreement for Professional Services made December 4, 2007 and are in accordance with Section IV. Paragraph B. of that Agreement. Additional services were requested by the City of Wichita Engineering. Sections are outlined as per the original Agreement for Professional Services.

SECTION I – GENERAL SCOPE OF SERVICES

Deliverables

3. Concept Schematic & Report
    j. PB will provide an additional one (1) VISSIM simulation

5. Art & Aesthetic Report (paper copies and electronic pdf file)
    c. PB will conduct two (2) series of individual meetings with CITY Council for a total number of fourteen (14) meetings

8. ROW Strip Map and ROW Tract Maps
    d. Five preliminary plats

SECTION II – SPECIFIC SCOPE DETAILS

A. SURVEY

Extend the physical limits of the work are shown in Figure 1 of the Agreement for Professional Services made December 4, 2007 as follows:

- Approximately 500 feet north and 500 feet south on Webb Road
- Approximately 500 feet north and 500 feet south on Greenwich Road
- Approximately 500 feet north on Zelta Street

B. TRAFFIC ENGINEERING

- An additional one (1) concept consisting of preliminary geometric layout and traffic analysis will be developed for each interchange including
    1) One (1) additional at KTA/Webb Road
- An additional one (1) VISSIM simulation model will be developed
    1) One (1) additional at KTA/Webb Road

C. ROADWAY DESIGN

C.1 Freeway, Interchanges & Cross-over

- Horizontal and Vertical alignment adjustments for the mainline as required for additional services as outlined in Section B of this document.
- Interchange/Cross-over layout adjustments for the KTA/Webb as required for additional services as outlined in Section B of this document.

C.2 Frontage Roads

- Horizontal and Vertical alignment adjustments for the mainline as required for additional services as outlined in Section B of this document.

C.3 Arterial Streets

- Horizontal and Vertical alignment adjustments for Webb Road as required for additional services as outlined in Section B of this document.
- Geometric adjustments for Webb Road as required to shift the horizontal alignment approximately twenty feet east of the existing section line.
- Geometric adjustments for Zelta Street as required to shift the horizontal alignment approximately twenty feet east of the existing section line.
- Webb Road Alternate design and plan preparation to accommodate a median break on Webb Road south of Kellogg Avenue

E. STRUCTURES

E.1 Grade Separations

- KTA Connector Bridge over South Frontage Road approximately 200' long and 50' wide.
- Adjustments for the Webb Road Bridge over Kellogg Avenue as required for additional services as outlined in Section B of this document.

F. DRAINAGE

F.1 Storm Sewer System

Storm Sewer System design adjustments required for additional services outlined in Section C and Section E of this document.

I. PROJECT SIGNING

Preliminary design signing adjustments required for additional services outlined in Section C and Section E of this document.

J. FREEWAY/STREET LIGHTING

Lighting design required for additional services outlined in Section E of this document.

M. ROW STRIP AND ROW TRACT MAPS

PB will prepare a total of five (5) concept plats as required.

N. UTILITIES

N.1.1 Water

Water design adjustments required for additional services outlined in Section C and Section E of this document.

N.1.2 Sanitary Sewer

Sanitary sewer design adjustments required for additional services outlined in Section C and Section E of this document.

U. INTERAGENCY COORDINATION

Additional coordination with project partners to further investigate options at the KTA/Webb Road Interchange includes telephone conversations as well as preparation of agendas, minutes and materials for the following face to face meetings:

- Four (4) Coordinating meetings with the Kansas Department of Transportation and the Kansas Turnpike Authority

V. PROJECT MANAGEMENT

Additional project management, administration and coordination required for additional services outlined in the previous sections of this document.

Additional six (6) months of Reports of Progress will be distributed to the CITY every (4) weeks coinciding with invoices. Reports of Progress will address:

- Physical percent complete
- Financial percent complete
- Comparison of actual man-hours spent vs. anticipated man-hours
- Work performed in previous period (4 weeks)
- Work anticipated for next period (4 weeks)
- Summary of external meetings

Additional six (6) months of Bi-weekly Project Management Meetings will be held with Core Design Team members to review project status.

- An agenda will be sent one day prior to the scheduled meeting to all task leaders, core team members and the CITY Project Manager.
- Meeting minutes will be distributed to all task leaders, core team members and the CITY Project Manger

X. SIGNALIZE INTERSECTION OF KELLOGG AND 159TH STREET

The scope of services consists of performing design, plan preparation, project special provisions and construction cost estimates from the Concept Development to Final Plan, Specifications and Estimate (PS&E) for:

- Signalized at-grade intersection of Kellogg Avenue and 159th Street

Plan preparation details will follow the KDOT plan preparation process. General plan drawings shall be at 1”=50’ scale with detail drawings at 1”=20’ scale. Plans will be prepared in US Customary/English Units and follow the KDOT plan sheet sequence.

X.1 Roadway Design

Road design improvements for the at-grade intersection of Kellogg Avenue and 159th Street will include the addition and/or extension of turning lanes and storage bays for eastbound Kellogg Avenue, westbound Kellogg Avenue, northbound 159th Street and southbound 159th Street as determined by traffic analysis.

- Horizontal and Vertical alignment will be evaluated for the final alternative during concept development.
- Roadway design is assumed for rural sections of both Kellogg Avenue and 159th Street. Design does not include curb and gutter and sidewalks.
- Improvements to 159th Street are assumed approximately 1000 feet north and 1000 feet south of the centerline of Kellogg Avenue
- Improvements to Kellogg Avenue are assumed approximately 1000 feet east and 1000 feet west of the Sedgwick/Butler County line.

X.2 Geotechnical Engineering

The scope of services for site subsurface investigation includes a single boring for each of four bents and foundation recommendation. Pavement section will be supplied by the CITY. Pavement type is assumed to be concrete for mainline including the intersection and asphalt for side roads beyond the intersection to tie-in points.

X.3 Structures

The scope of services consists of performing design, plan preparation, project special provisions and construction cost estimates from the Concept Development to Final Plan, Specifications and Estimate (PS&E) to widen existing KDOT Bridge No. 54-87-36.9 to accommodate a single left turn storage bay. Final design and plan preparation will be based on the field check plans and field check report. Design loading for widening of the existing bridge will be according to AASHTO LFD specifications for a HS-20 truck.

X.4 Drainage

Roadway drainage is assumed to be handled by existing roadway ditches. The scope of services does not include the design of a closed storm sewer system.

X.5 Traffic Signals

- Permanent traffic signals will be designed in accordance MUTCD, KDOT and CITY standards at:
    1) 159th Street
- Design and Plans for all hardware (loops, detectors, controllers etc.), phasing, timing and coordination for signalization; signal structures will be standard type
- Plans will be prepared using both CITY and KDOT standards for urban conditions
- No special structural design of signal mast arms and posts are anticipated in the scope

X.6 Pavement Marking

Permanent pavement marking will be designed in accordance MUTCD, KDOT and CITY standards.

X.7 Signing

Permanent signing will be designed in accordance MUTCD, KDOT and CITY standards. Standard trusses, sign supports and foundations are assumed and will be designed by KDOT.

X.8 ROW Tract Maps

PB will prepare right-of-way tract maps and descriptions as required.

X.9 Utilities

X.9.1 CITY Utilities

The scope of services assumes no relocation or adjustments of public utilities.

X.9.2 Utility Coordination

Utility coordination shall address conventional telephone, gas, cable television and electric services.

Actual design of private utility relocations, to be completed by the individual utility company(s), and coordination and inspection of the actual utility relocations prior to construction are not included in this scope of services.

X.10 Maintenance of Traffic (MOT)

Maintenance of Traffic Plans for the corridor will be consistent with KDOT procedures and in accordance with the current Manual of Uniform Traffic Control Devices (MUTCD). The scope of services will include development of a sequencing concept as well as detailed MOT device, temporary signing and marking.

X.11 Interagency Coordination

The scope of services includes coordination with other governmental agencies for the purposes of information gathering, sharing, approval of design, operations and maintenance of the proposed project including federal funding requirements if desired by the CITY. All coordination with the agencies shall be either initiated by or at the request of the CITY.

- Coordinating agencies are KDOT, FHWA, City of Andover, Butler County and Sedgwick County.

SECTION III – SCHEDULE

In accordance to Section V. Paragraph D. of the Agreement for Professional Services made December 4, 2007 an extension is requested due to unavoidable delays. The following schedule represents a revised performance schedule excluding the time taken by the City and other reviewing agencies:

1. Submit Field Check Plans within **60** Calendar Days from Concept Design Approval
2. Submit Right-of-Way Tract Maps within **210** Calendar Days from Concept Design Approval
3. Submit Office Check Plans within **540** Calendar Days from Concept Design Approval
4. Submit Final Plans within **630** Calendar Days from Concept Design Approval

The above schedule is intended for the submittal of Field Check Plans no later than 9/30/2010; Right-of-Way Tract Maps no later than 2/25/2011; Office Check Plans no later than 1/20/2012; and Final Plans no later than 4/20/2012 assuming Concept Design approval on or before 7/30/2010 and Aesthetic Design Freeze on or before 2/28/2011.

The following schedule represents the performance schedule for Section X. SIGNALIZE INTERSECTION OF KELLOGG AND 159TH STREET of this document excluding the time taken by the City and other reviewing agencies:

1. Submit Concept Design within **90** Calendar Days from Notice to Proceed
2. Submit Field Check Plans within **60** Calendar Days from Concept Design Approval
3. Submit Office Check Plans within **150** Calendar Days from Concept Design Approval
4. Submit Final Plans within **210** Calendar Days from Concept Design Approval

The above schedule is intended for the submittal of Concept Design no later than 12/28/2010; Field Check Plans no later than 3/28/2011, Final Plans no later than 8/28/2011 assuming Notice to Proceed on or before 9/30/2010 and Concept Design approval on or before 1/30/2011.

Exhibit "C" for Supplement 1 – Fee

Project I: East Kellogg Improvements (US-54) from Cypress to 127th Street

Item		Hours		Cost
KTA/Webb VISSIM Model #6 *Development of VISSIM model for a fifth option to remove signals at the KTA/Webb Road Interchange*				**$ 9,324.00**
	TranSystems Corporation	82	$ 9,324.00	
KTA/Webb Alternate *Develop geometrics and bridge layouts, traffic analysis, develop preliminary signing , agency coordination, project management, and quality review for an option to remove signals at the KTA Exit 50*				**$ 54,715.23**
	PB Direct Salary Cost	429	$ 16,442.05	
	PB Overhead (154.7%)		$ 25,435.84	
	PB Fee		$ 5,025.34	
	TranSystems Corporation	82	$ 7,812.00	
KTA Access Road Bridge over South Frontage Road & Alternate *Design KTA Access Road Bridge over the South Frontage Road with Alternate*				**$ 236,609.54**
	PB Direct Salary Cost	2,178	$ 82,156.02	
	PB Overhead (154.7%)		$ 127,095.36	
	PB Fee		$ 25,110.16	
	TranSystems Corporation	16	$ 1,728.00	
	Reproduction		$ 520.00	
Webb Road & Zelta Revisions *Revise geometrics, storm sewer, water lines and sanitary sewer to shift Webb Road east & to shift Zelta east*				**$ 73,682.15**
	PB Direct Salary Cost	76	$ 3,099.64	
	PB Overhead (154.7%)		$ 4,795.14	
	PB Fee		$ 947.37	
	MKEC Engineering Consultants, Inc.	956	$ 64,840.00	
Webb Road Alternate *Complete traffic analysis and design alternate to accommodate a median break on south Webb Road*				**$ 20,692.83**

	PB Direct Salary Cost	86	$ 3,703.88	
	PB Overhead (154.7%)		$ 5,729.90	
	PB Fee		$ 1,132.05	
	MKEC Engineering Consultants, Inc.	144	$ 10,020.00	
	Reproduction		$ 107.00	
Additional Survey *Extension of limits of ground survey on side roads*				**$ 35,756.22**
	PB Direct Salary Cost	8	$ 381.12	
	PB Overhead (154.7%)		$ 589.59	
	PB Fee		$ 116.49	
	Baughman Company, PA	373	$ 34,669.02	
Preliminary Plats *Prepare five (5) concept plats to accommodate project improvements*				**$ 43,012.48**
	PB Direct Salary Cost	20	$ 952.80	
	PB Overhead (154.7%)		$ 1,473.98	
	PB Fee		$ 291.22	
	Baughman Company, PA	391	$ 39,974.48	
	Reproduction		$ 320.00	
Aesthetic Coordination *Conduct individual meetings with City Council regarding aesthetic concepts*				**$ 29,961.98**
	PB Direct Salary Cost	80	$ 3,811.20	
	PB Overhead (154.7%)		$ 5,895.92	
	PB Fee		$ 1,164.86	
	Vicki Scuri Siteworks	80	$ 10,000.00	
	Kent Williams	80	$ 8,000.00	
	Reproduction		$ 1,090.00	
Signalize Kellogg & 159th *PS&E Plans to signalize at-grade intersection at Kellogg and 159th Street*				**$ 199,611.65**
	PB Direct Salary Cost	1656	$ 66,956.10	
	PB Overhead (154.7%)		$ 103,581.09	
	PB Fee		$ 20,464.46	
	Terracon		$ 5,000.00	
	Reproduction		$ 2,635.00	
	Travel & Meals		$ 975.00	
Project Management *Additional six (6) months of progress reports and bi-*				**$ 56,276.75**

weekly project meetings				
	PB Direct Salary Cost	288	$ 13,076.22	
	PB Overhead (154.7%)		$ 20,228.91	
	PB Fee		$ 3,996.62	
	TranSystems Corporation	72	$ 7,725.00	
	MKEC Engineering Consultants, Inc.	72	$ 7,725.00	
	Baughman Company, PA	24	$ 3,525.00	
Total Supplement 1				**$ 759,642.83**

Agenda Item No. XII-8b

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Agreement for Design Services for St. Francis and Commerce, between Waterman and Kellogg (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

- -

Recommendation: Approve the design agreement and design project.

Background: The Capital Improvement Program (CIP) includes funding for improving both St. Francis and Commerce, between Waterman and Kellogg. A Request for Proposal was issued on June 15, 2010, with responses received from eight consultants. On July 14, 2010, the Staff Screening and Selection Committee interviewed two consultants (Baughman Company and Professional Engineering Consultants) for designing the street improvements. The Staff Screening and Selection Committee recommended Baughman because they had the best overall design team, including an artist that maintains a studio on Commerce and has intimate knowledge of the needs of the area.

Analysis: The agreement provides for the development of design concepts for improvements to both St. Francis and Commerce, between Waterman and Kellogg. The design shall include evaluation of vehicular and pedestrian traffic needs, drainage requirements, and will utilize the City of Wichita Downtown Streetscapes Design Guidelines to develop a streetscape design plan specifically for the area. The project will include significant public involvement with local property owners and Commerce Streets Arts District representatives.

Financial Considerations: The design budget in the CIP is $130,000. Payment to Baughman will be on a lump sum basis of $105,670, paid by General Obligation Bonds.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving streets in the downtown area.

Legal Considerations: The Department of Law has approved the authorizing ordinance and agreement as to legal form.

Recommendations/Actions: It is recommended that the City Council approve the design project, approve the agreement, place the ordinance on first reading and authorize the necessary signatures.

Attachments: CIP sheet, agreement and ordinance

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	Eng	8/23/2010	St. Francis & Commerce Improvement, between Waterman Kellogg

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$191,000			$191,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Multi-Use Path				
Totals	$130,000			$130,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	x	

Remarks:

Design Only

[illegible]

13. Recommendation: Approve the project, agreement and place the ordinance on 1st Reading

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

132019

First Published in the Wichita Eagle September 24, 2010

ORDINANCE NO. 48-836

AN ORDINANCE DECLARING THE **ST. FRANCIS AND COMMERCE, BETWEEN WATERMAN AND KELLOGG, (472-84935)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

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 the **St. Francis and Commerce, between Waterman and Kellogg (472-84935)** 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 the **St. Francis and Commerce, between Waterman and Kellogg (472-84935)** as a main trafficway in the following particulars:

The design of a roadway as necessary for a major traffic facility.

SECTION 3. The costs of the above described improvements is estimated to be **One Hundred Thirty Thousand Dollars ($130,000),** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 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 21st day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

ST. FRANCIS AND COMMERCE BETWEEN WATERMAN AND KELLOGG

THIS AGREEMENT, made this _____ day of _____, 2010, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

ST. FRANCIS AND COMMERCE BETWEEN WATERMAN AND KELLOGG
(Project No. 472 84935)

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements to St. Francis and Commerce and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
D. To save and hold 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 ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. 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, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than $500,000.00 subject to a deductible of $20,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - $500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than $500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. <u>THE CITY AGREES</u>:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 472 84935 **$105,670.00**

During the progress of work covered by this agreement, partial payments may be made to the ENGINEER at intervals of one calendar month. The progress billings shall be supported by documentation acceptable to the City Engineer which shall include a project bar chart or other suitable progress chart indicating progress on the PROJECT and a record of the time period to complete the work, the time period elapsed, and the time period that remains to complete the work. Billings submitted during the progress of the work will be paid on the basis of satisfactory completion of major project tasks.

Accumulated partial payments for the PROJECT shall not exceed eighty-five percent (85%) of the total fees for services prior to satisfactory completion of all work required by this agreement.

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
   1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
   2. Additional design services not covered by the scope of this agreement.
   3. Construction staking, material testing, inspection and administration related to the PROJECT.
   4. A major change in the scope of services for the PROJECT.

   If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. 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 parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof 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.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

_____

Carl Brewer, Mayor

SEAL:

ATTEST:

_____

Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____

Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.

_____

N. Brent Wooten, President

ATTEST:

_____

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Change Order: Dry Creek Channel Improvement, between Lincoln and Orme (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the change order.

Background: On June 9, 2009, the City Council approved a construction contract with Utility Contractors, Inc. to improve Dry Creek in an area north of Lincoln east of Oliver. A number of work items have been identified since the project was let that should be addressed as a change order.

Analysis: A safety fence is being installed along the improved portion of the channel adjacent to private property. Although this area is sloped, the proximity to public access was deemed to be a concern for safety after construction. The amount of fencing will be extended for these safety reasons. The City acquired property after the project was let and additional work and grading is needed at this lot. An additional 140' of curb and gutter on Gilbert Street was removed and replaced near the new bridge. An itemized list of the work items is included in the attached change order document.

Financial Considerations: The total cost of the additional work is $48,574 with the total paid by the Storm Water Utility. The original contract amount is $1,643,640. This change order represents 2.96% of the original contract amount. Funding is available within the existing project budget.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving a creek channel.

Legal Considerations: The Law Department has approved the change order as to legal form. The change order amount is within the 25% of construction contract cost limit set by City Council policy.

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

Attachments: Change order.

PUBLIC WORKS-ENGINEERING

August 4, 2010

CHANGE ORDER

To: UCI

Project: Dry Creek Channel Improvements, Lincoln to Orme

Change Order No.: 1

Project No.: 468-84177

Purchase Order No.: 930521

OCA No.: 660801/636218

CHARGE TO OCA No.: 660801

PPN: 866002/779607

Please perform the following extra work at a cost not to exceed **$48,574.00**

Additional Work: Modify Storm Sewer; add rip-rap and fencing. Remove additional trees.

Reason for Additional Work:

Item #1 – Complete final grading on the west bank of the channel from Station 13+50 to 14+50. Property was purchased towards the end of the project, so contractor will be remobilizing their dirt contractor to complete this section.

Item	Negot'd/Bid	Qty			Unit Price	Extension
ADD:						
Remobilization	Negot'd	1	LS	@	3,500.00 =	$3,500.00

Item #2 – The fence located on the property of 5010 E Gilbert Court will be relocated off the easement. The contractor will match the existing fence material in this area.

Item	Negot'd/Bid	Qty			Unit Price	Extension
OVERRUN:						
Chain Link Fencing (Black Vinyl Coated)	Bid	1396	lf	@	20.00 =	$27,920.00

Item #3 – The contractor is to remove existing and relay new 12" SWS RCP located at 14+25 LT. This includes adding a 12" restrained end section and also tying into the existing curb inlet.

Item	Negot'd/Bid	Qty			Unit Price	Extension
ADD:						
12' SWS RCP	Negot'd	1	LS	@	7,300.00 =	$7,300.00

Item #4 – The contractor is to remove and replace an additional 140' of Curb & Gutter on Gilbert Street to promote positive drainage across the new bridge. The replaced Curb & Gutter is located on the South side of Gilbert and on the West side of the RCB. Three new curb inlets on the East side of the RCB were also cut down to create better drainage on the West side and across the RCB.

Item	Negot'd/Bid	Qty			Unit Price	Extension
OVERRUN:						
Comb. C&G Removal	Bid	140	lf	@	4.00 =	$560.00
Comb. C&G (6 5/8" & 1 1/2")	Bid	140	lf	@	15.00=	$2,100.00
ADD:						
Cut Curb Inlets	Negot'd	1	LS	@	3,800.00=	$3,800.00

Item #5 – The contract is to install 5" of reinforced rock base underneath the new pavement that ties in the new RCB. Plans did not call out for any reinforced rock base, but it was needed.

Item	Negot'd/Bid	Qty			Unit Price	Extension
ADD:						
Reinforced Rock Base	Negot'd	1	LS	@	3,394.00 =	$3,394.00

Item #6 – An additional 60 calendar days will be added to the contract.

Item	Negot'd/Bid	Qty		Unit Price	Extension
ADD:					
Additional Working Days	Negot'd	1 LS	@	0.00 =	$0.00
				Total=	**$48,574.00**

CIP Budget Amount: $3,500,000.00	**Original Contract Amt.: $1,643,640.00**
Consultant: Black & Veatch	**Current CO Amt.: $48,574.00**
Total Exp. & Encum. To Date: $2,569,359.90	**Amt. of Previous CO's: $0.00**
	Total of All CO's: $48,574.00
CO Amount: $48,574.00	**% of Orig. Contract / 25% Max.: 2.96%**
Unencum. Bal. After CO: $882,066.10	**Adjusted Contract Amt.: $1,692,214.00**

Recommended By:

_____ _____
Greg Baalman, P.E. Date
Construction Engineer

Approved:

_____ _____
Jim Armour, P.E. Date
City Engineer

Approved:

_____ _____
Contractor Date

Approved:

_____ _____
Chris Carrier, P.E. Date
Director of Public Works

Approved as to Form:

_____ _____
Gary Rebenstorf Date
Director of Law

By Order of the City Council:

_____ _____
Carl Brewer Date
Mayor

Attest:_____
City Clerk

Agenda Item No. XII-10a

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 3501 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The improvements at 3501 East 13th Street North are impacted by the proposed realignment. Built in 1936, the duplex is comprised of 1,743 square feet. The property is currently occupied; the occupants will be eligible for certain relocation and reestablishment benefits.

Analysis: The owner agreed to sell the land with all of its improvements for the appraised value of $70,000, or $40 per square foot. The tenants in occupancy are eligible for certain relocation and reestablishment expenses.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $95,500 is requested. This includes $70,000 for the acquisition, $16,000 for relocation and reestablishment expenses, $8,000 for demolition and $1,500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** August 5, 2010

COUNTY: Sedgwick **TRACT NO.:** 72

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 5 day of August, 2010,, by and between

Oscar F. Materre and Shirley Y. Materre, husband and wife

And Dawnielle C. Materre, a single person

3501 East 13st. North

Wichita, KS 67226

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 7,372 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 70,000.00

TOTAL: $ 70,000.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Oscar F. Materre
Oscar F. Materre

By: Shirley Y. Materre
Shirley Y. Materre

By: Dawnielle Materre
Dawnielle C. Materre

THE CITY OF WICHITA

By:_____

MEMORANDA

Exact and full name of owner, as name appears of record:

Oscar F. Materre and Shirley Y. Materre and Dawnielle C. Materre

If mortgage or other liens, show names of holders:

Central Mortgage Corporation

REMARKS:

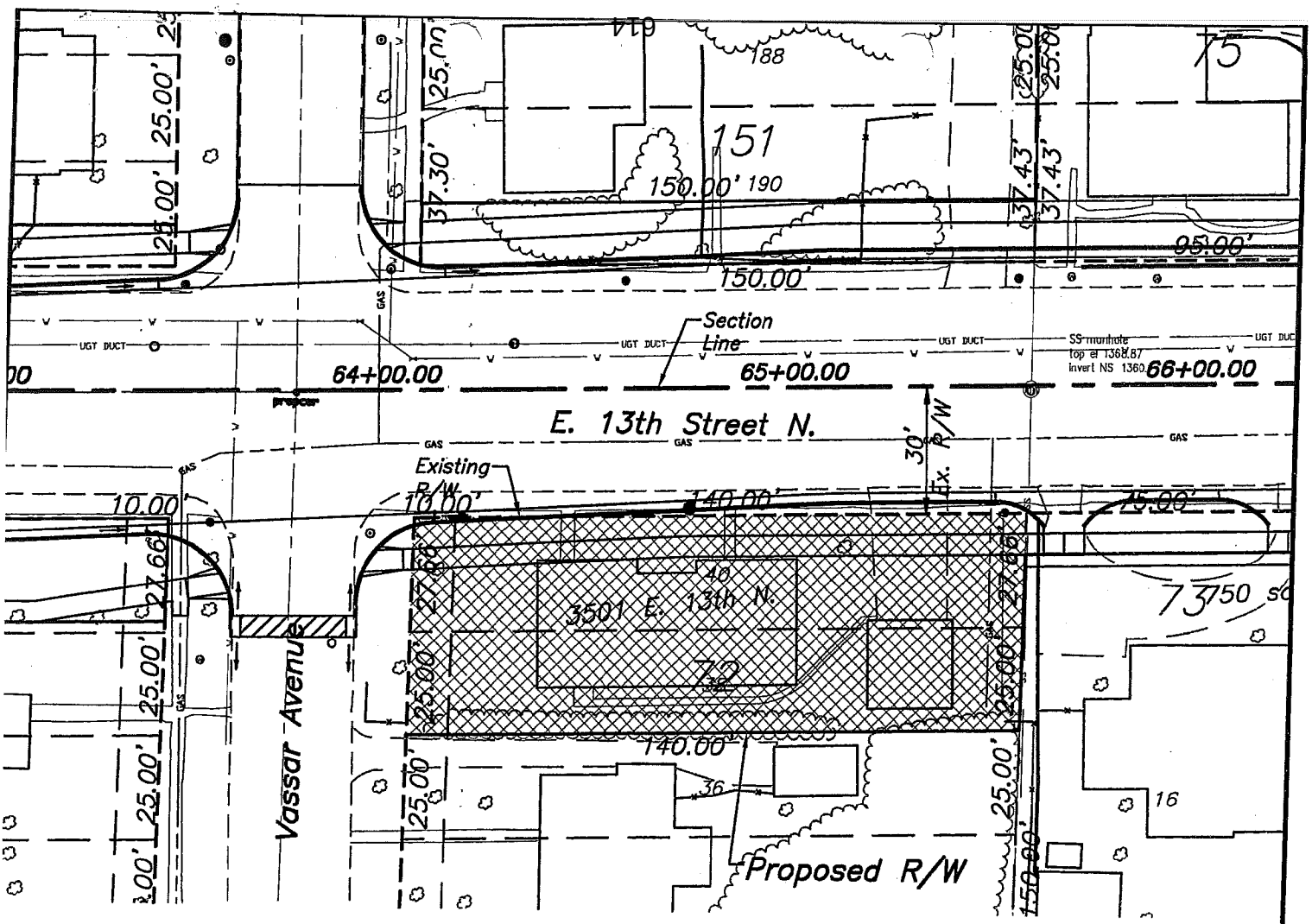
PIN/APN 126140220200300
Security Title File Number 2000256

APPROVED TO FORM:

Gary E. Rebenstorf
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

All of Lots 38 & 40, on Vassar Avenue and the adjoining vacated Ten feet of Vassar Avenue in Fairmount Place Addition, an addition to Wichita, Sedgwick County, Kansas.

TAX KEY #: C044630001

R/W ACQUISITION SIZE: 7,899 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

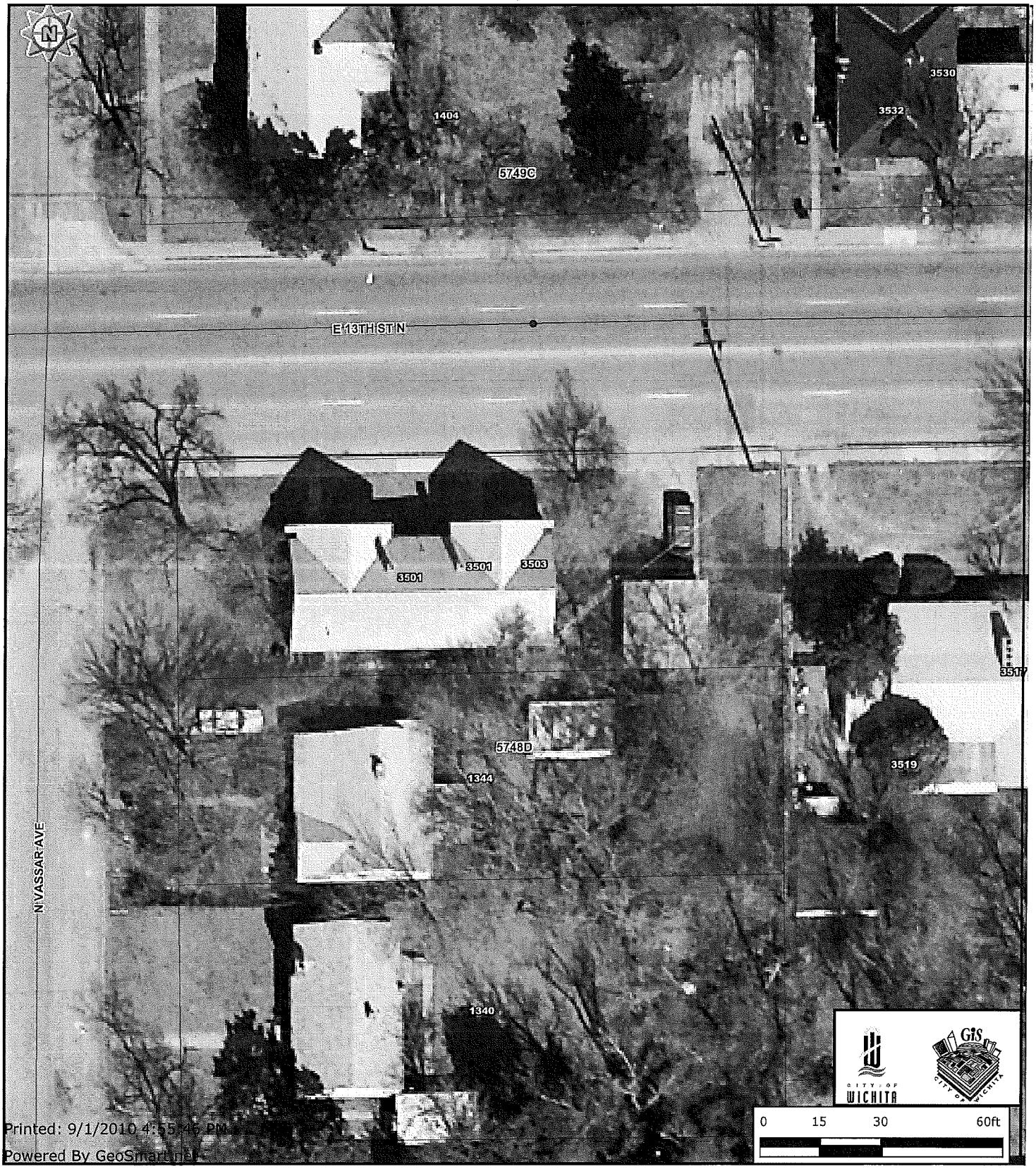
OSCAR & SHIRLEY MATERRE

SCALE: 1" = 40'

Tract No. 72

3501 East 13th Street North

Full Acquisition



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-10b

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 3532 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The improvements at 3532 East 13th Street North are impacted by the proposed realignment. Built in 1920, the duplex is comprised of 1,162 square feet. The property is currently occupied; the occupants will be eligible for certain relocation and reestablishment benefits.

Analysis: The owner agreed to sell the land with all of its improvements for the appraised value of $76,500, or $65 per square foot. The tenants in occupancy are eligible for certain relocation and reestablishment expenses.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $102,000 is requested. This includes $76,500 for the acquisition, $16,000 for relocation and reestablishment expenses, $8,000 for demolition and $1,500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** _____

COUNTY: Sedgwick **TRACT NO.:** 75

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this _____day of August, 2010, by and between

Joel Associates LLC

1999 N Amidon Ave.

Wichita, KS 67203

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 14,725 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner:	$ 76,500.00
TOTAL:	$ 76,500.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: _____
Leonard E. Marotte, Member of Joel Associates LLC

By: _____
Joseph L. Kramer, Member of Joel Associates LLC

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Joel Associates LLC

If mortgage or other liens, show names of holders:

Midland National Bank

REMARKS:

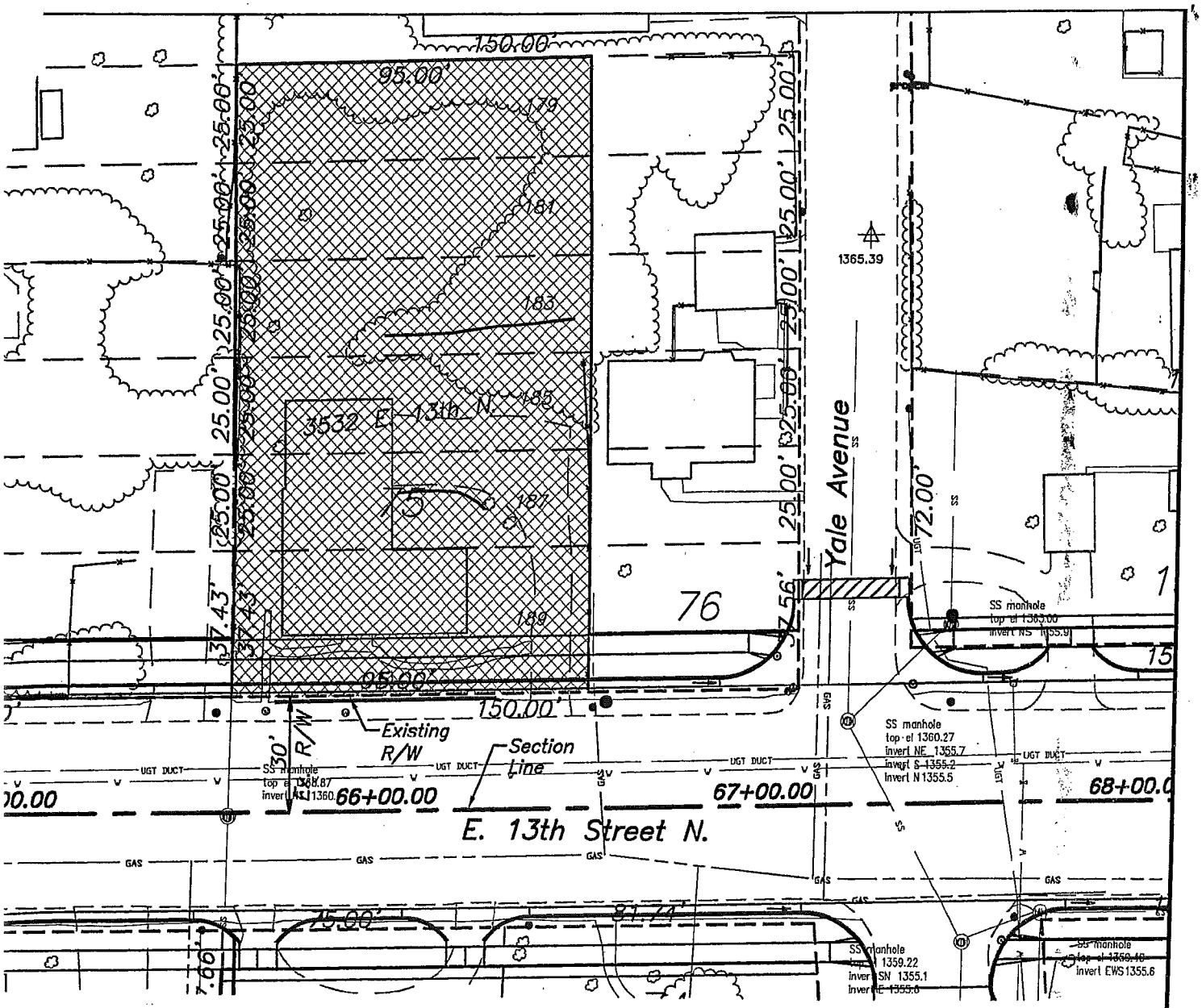
PIN/APN 121110330801200
Security Title File Number 2000296

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

Part of Lots 179,181,183,185,187, & 189, in Replat of Part of Fairmount Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows.

All of the West 95 feet of Lots 179,181,183,185,187, & 189, on Wellsley Avenue (now Yale Avenue) in Replat of Part of Fairmount Addition.

TAX KEY #: C04716

R/W ACQUISITION SIZE: 15,443 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

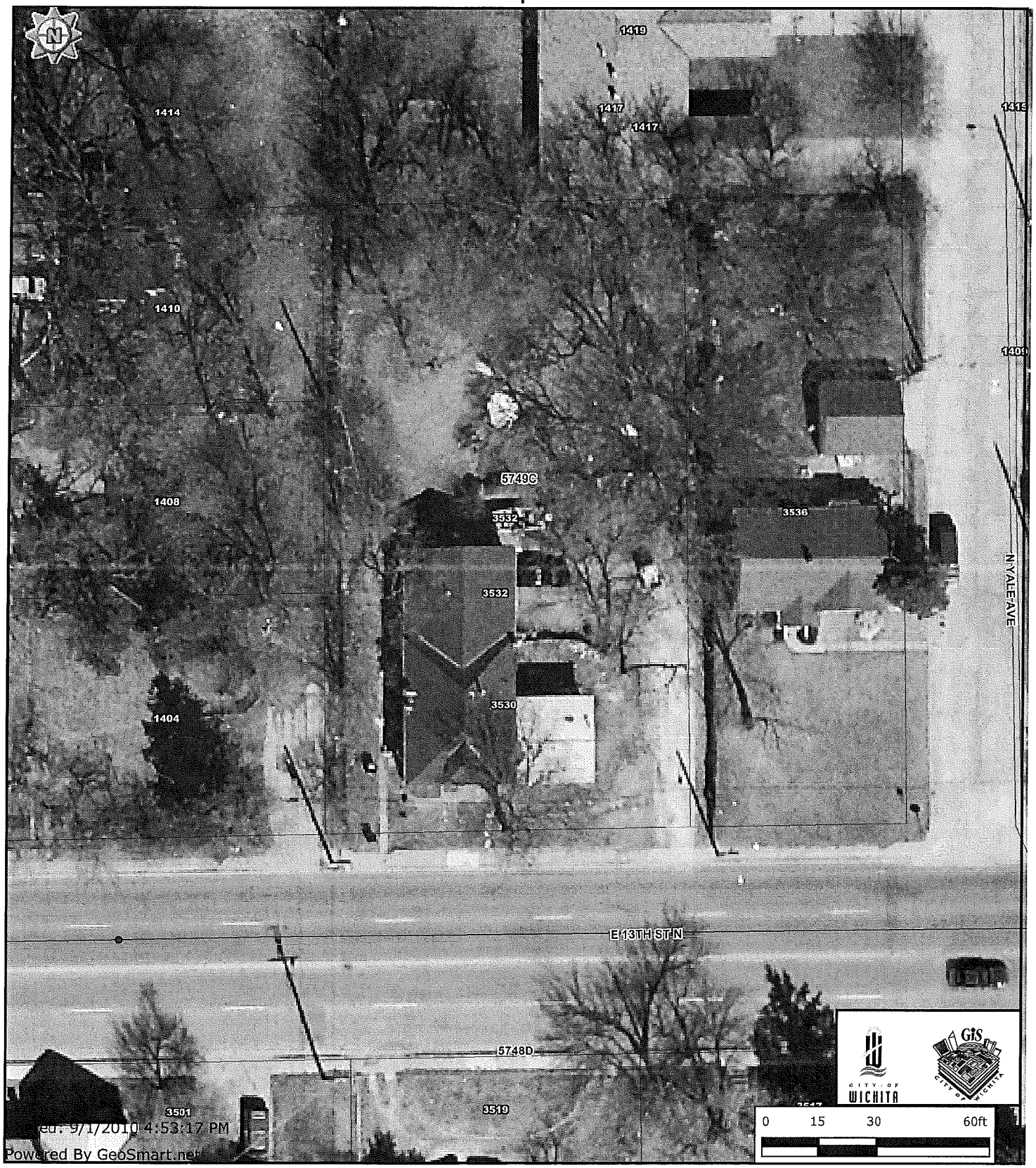
JOEL ASSOCIATES

SCALE: 1" = 40'

Tract No. 75

3532 East 13th Street North

Full Acquisition



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-10c

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 2607 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The improvements at 2607 East 13th Street North are impacted by the proposed realignment. Built in 1930, the single-family house is comprised of 800 square feet. The property is currently occupied; the occupants will be eligible for certain relocation and reestablishment benefits.

Analysis: The owner agreed to sell the land with all of its improvements for the appraised value of $21,000, or $26 per square foot. The tenant in occupancy is eligible for certain relocation and reestablishment expenses.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $37,200 is requested. This includes $21,000 for the acquisition, $8,000 for relocation and reestablishment expenses, $7,000 for demolition and $1,200 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** _____

COUNTY: Sedgwick **TRACT NO.:** 29

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 17th day of August, 2010, by and between

Thuy Dang Bui and Lam T. Ngo, husband and wife

2607 East 13th Street North

Wichita, KS 67214

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 4,500 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 21,000.00

TOTAL: $ 21,000.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: _____
Thuy Dang Bui

By: _____
Lam T. Ngo

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Thuy Bui

If mortgage or other liens, show names of holders:

INTRUST Bank, N.A.

REMARKS:

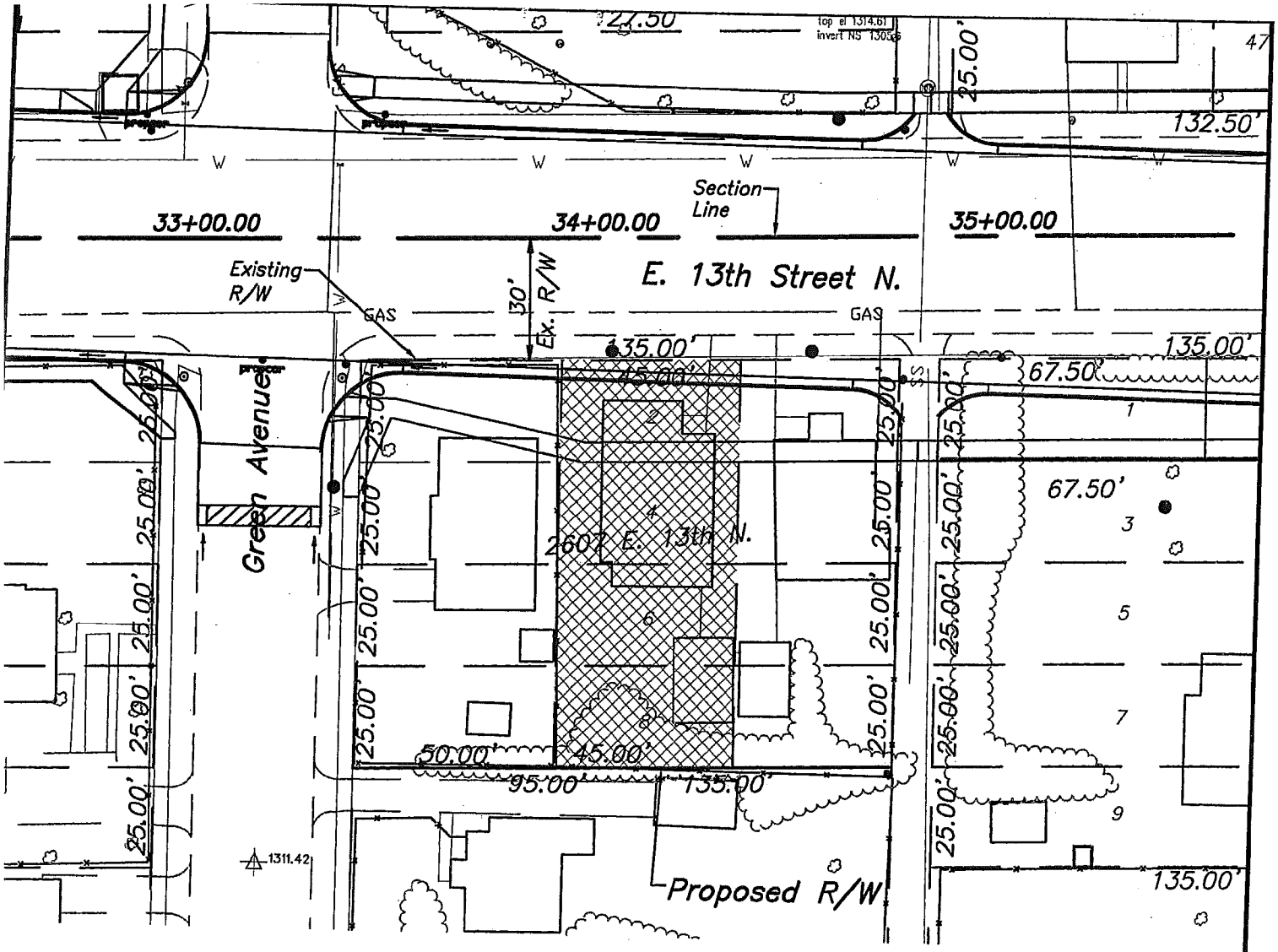
PIN/APN 125150120200300
Security Title File Number 1090425

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

Part of Lots 2, 4, 6, & 8, on Alice Avenue (now Green Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows.

All of the East 45 feet of the west 95 feet of lots 2, 4, 6, & 8 on Alice Avenue (now Green Avenue) in Fairmount Park Addition.

TAX KEY #: C02798

R/W ACQUISITION SIZE: 4,500 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

THUY BUI
SEC 15-T27-R1E

SCALE: 1" = 40'

Tract No. 29

2607 East 13th Street North

Full Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-10d

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 1345 North Fairmount and 3317 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The property at 1345 North Fairmount is improved with two duplex units with the second building having an address of 3317 East 13th Street North. Both properties were constructed in 1940. Due to the proposed realignment the project, the improvements are impacted at 1345 North Fairmount and 3317 East 13th Street North.

Analysis: 1345 North Fairmount is a two-story duplex and 3317 East 13th is a 1.5-story duplex. One unit at 1345 North Fairmount is owner occupied while the other portion is leased. The two units at 3317 East 13th Street are vacant. The owner agreed to convey the property with all of its improvements for the appraised amount of $180,000, or $90,000 for each duplex. The owner and tenant of 1345 North Fairmount are eligible for certain relocation and reestablishment benefits in addition to the purchase price.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $224,400 is requested. This includes $180,000 for the acquisition, $12,000 for demolition, $30,000 for relocation and reestablishment benefits and $1,500 for closing costs and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** _____

COUNTY: Sedgwick **TRACT NO.:** 146

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this _____ day of August, 2010, by and between

Janice Volk and Charles G. Volk, Jr., Trustees of the

Jeannette I. Robson Family Irrevocable Trust, dated July 23, 2010

1345 N. Fairmount

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 10,872 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 180,000.00

TOTAL: $ 180,000.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Janice Volk
Janice Volk, Trustee

By: Chas G Volk Jr
Charles G. Volk, Trustee

THE CITY OF WICHITA

By:_____

MEMORANDA

Exact and full name of owner, as name appears of record:

Janice Volk and Charles G. Volk, Jr., Trustees of the Jeannette I. Robson Family Irrevocable Trust, dated July 23, 2010

If mortgage or other liens, show names of holders:

None of Record

REMARKS:

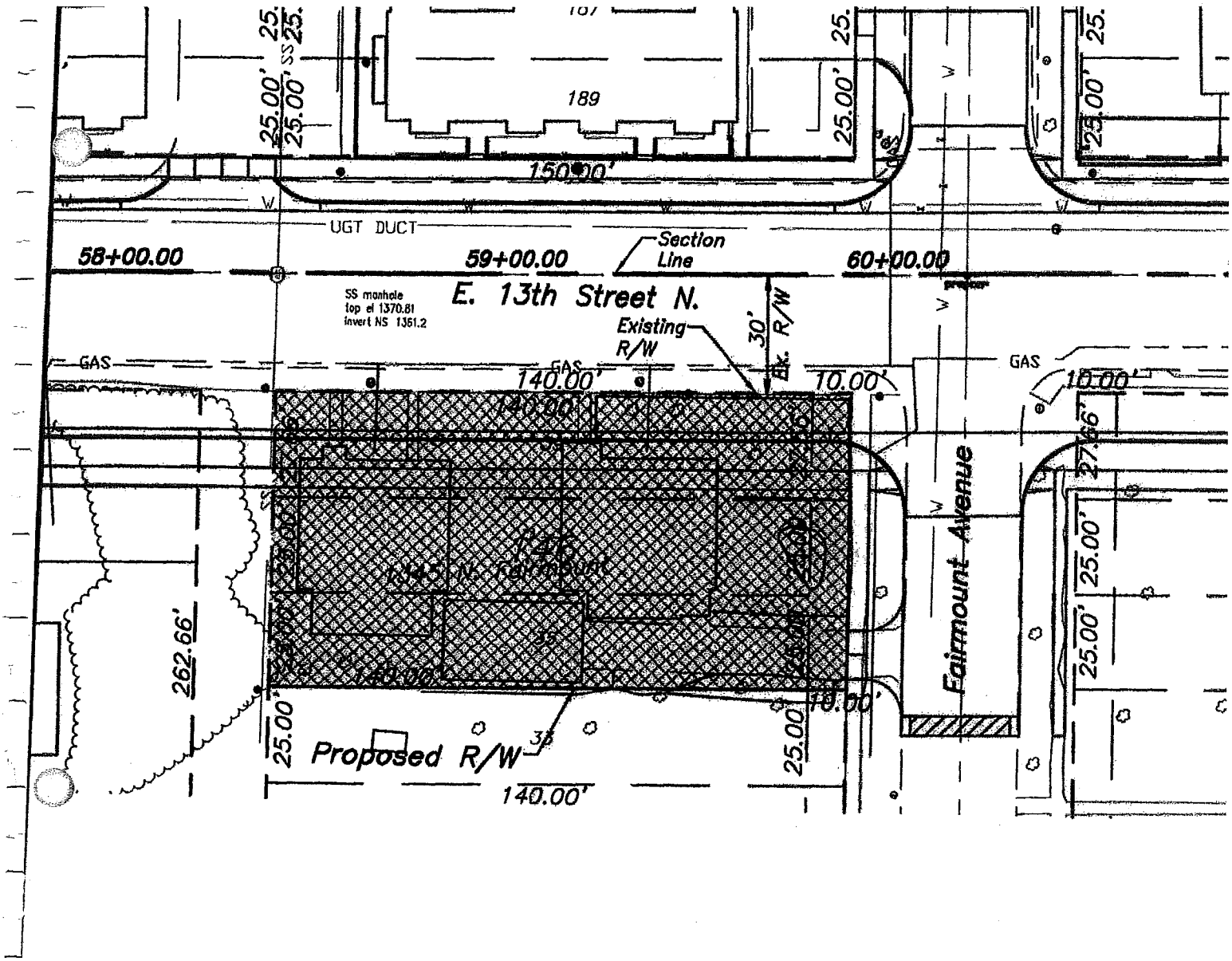
PIN/APN 126140220400100
Security Title File Number 2000545

APPROVED TO FORM:

Gary E. Rebenstorf
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

All of Lots 35, 37, & 39, on Fairmount Avenue and the adjoining vacated Ten feet of Fairmount Avenue in Fairmount Place Addition, an addition to Wichita, Sedgwick County, Kansas.

TAX KEY #: C04447

R/W ACQUISITION SIZE: 10,872 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

JEANETTE I. ROBSON & DOROTHY JARRELL
SEC 14–T27–R1E

SCALE: 1" = 40'

Tract No. 146

1345 N Fairmount together with 3317 E 13th

Full Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-10e

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 3517 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. Due to the proposed realignment the project requires a strip of land from the property located at 3517 East 13th Street. The ten foot wide strip of land consists of 750 square feet. A five foot wide strip of land is also required as a temporary construction easement; this easement consists of 225 square feet. The improvements are not impacted as a result of the proposed acquisition.

Analysis: The property at 3517 East 13th Street is improved with a 1,388 square foot, single-family residence on a 12,200 square foot lot. The improvements will not be impacted by the proposed acquisition; however, the new right-of-way line will be approximately sixteen feet from the residential improvements. The owner agreed to sell the necessary right-of-way and temporary easement for the estimated appraised value of $878. This amount is comprised of $0.90 per square foot for each the new right-of-way and the temporary easement areas.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $1,328 is requested. This includes $878 for the acquisition, $450 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** August 17, 2010

COUNTY: Sedgwick **TRACT NO.:** 73

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY EASEMENT

THIS AGREEMENT Made and entered into this 17th day of August, 2010, by and between

Albert Wiley Lucas Sr., and Mary L. Lucas

3517 E. 13th Street North

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with a temporary construction easement (3 years) on the following described property

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 750 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 675.00

Approximately 225 Sq. Ft. for Temporary Easement Damages including but not limited to all improvements and real property of the landowner: $ 203.00 (rd)

TOTAL: $ 878.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Albert Wiley Lucas
Albert Wiley Lucas

By: Mary L. Lucas
Mary L. Lucas

THE CITY OF WICHITA

By:_____

MEMORANDA

Exact and full name of owner, as name appears of record:

Albert Wiley Lucas Sr., and Mary L. Lucas

If mortgage or other liens, show names of holders:

MetLife Home Loans

REMARKS:

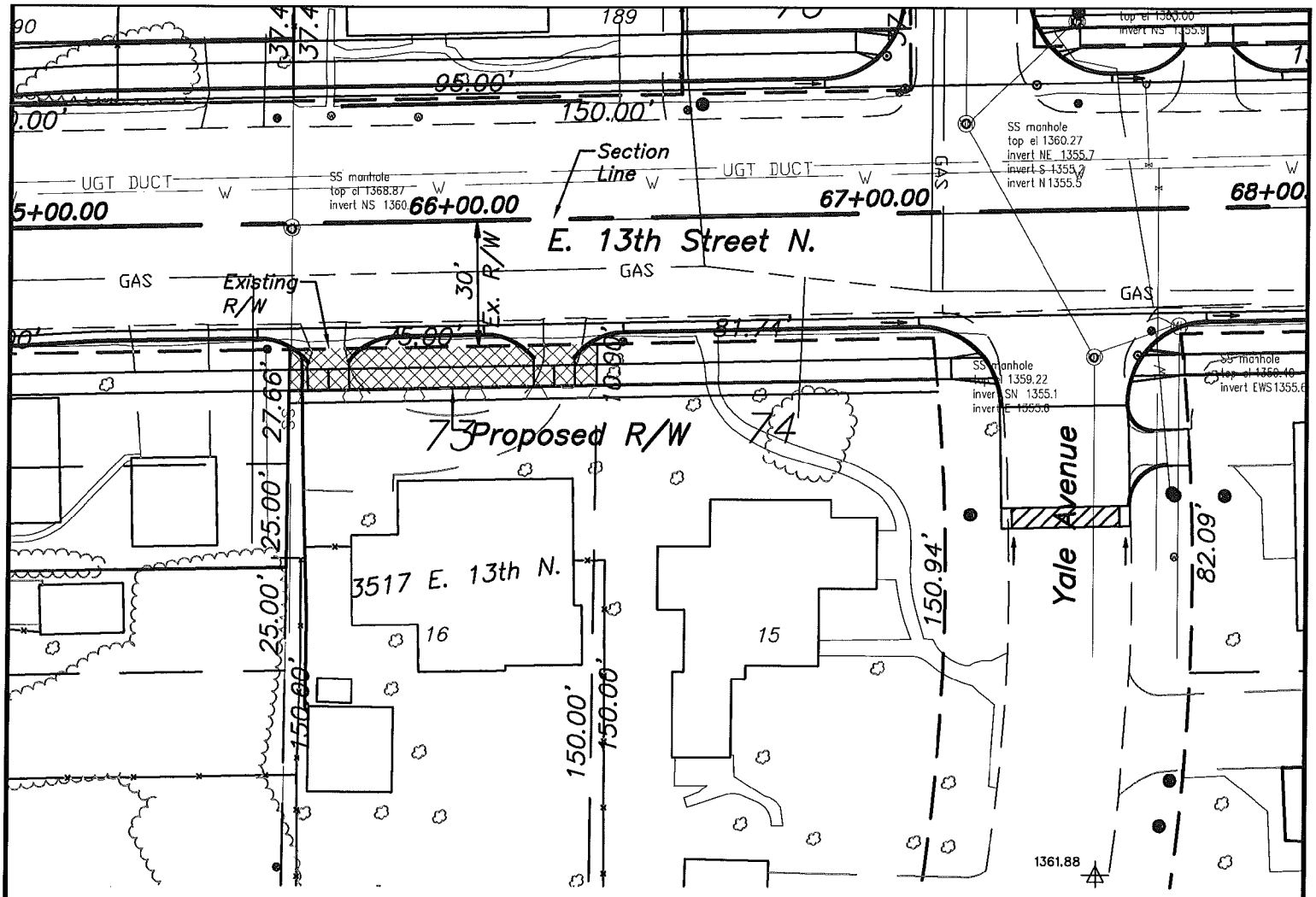
PIN/APN C 11834
Security Title File Number 2000284

APPROVED TO FORM:

Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lot 16, Cherrywynd Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 10.00 feet of said Lot 16 as measured perpendicularly to the North line of said Lot 16, as platted in Cherrywynd Addition.

TAX KEY #: C11834

R/W ACQUISITION SIZE: 750 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

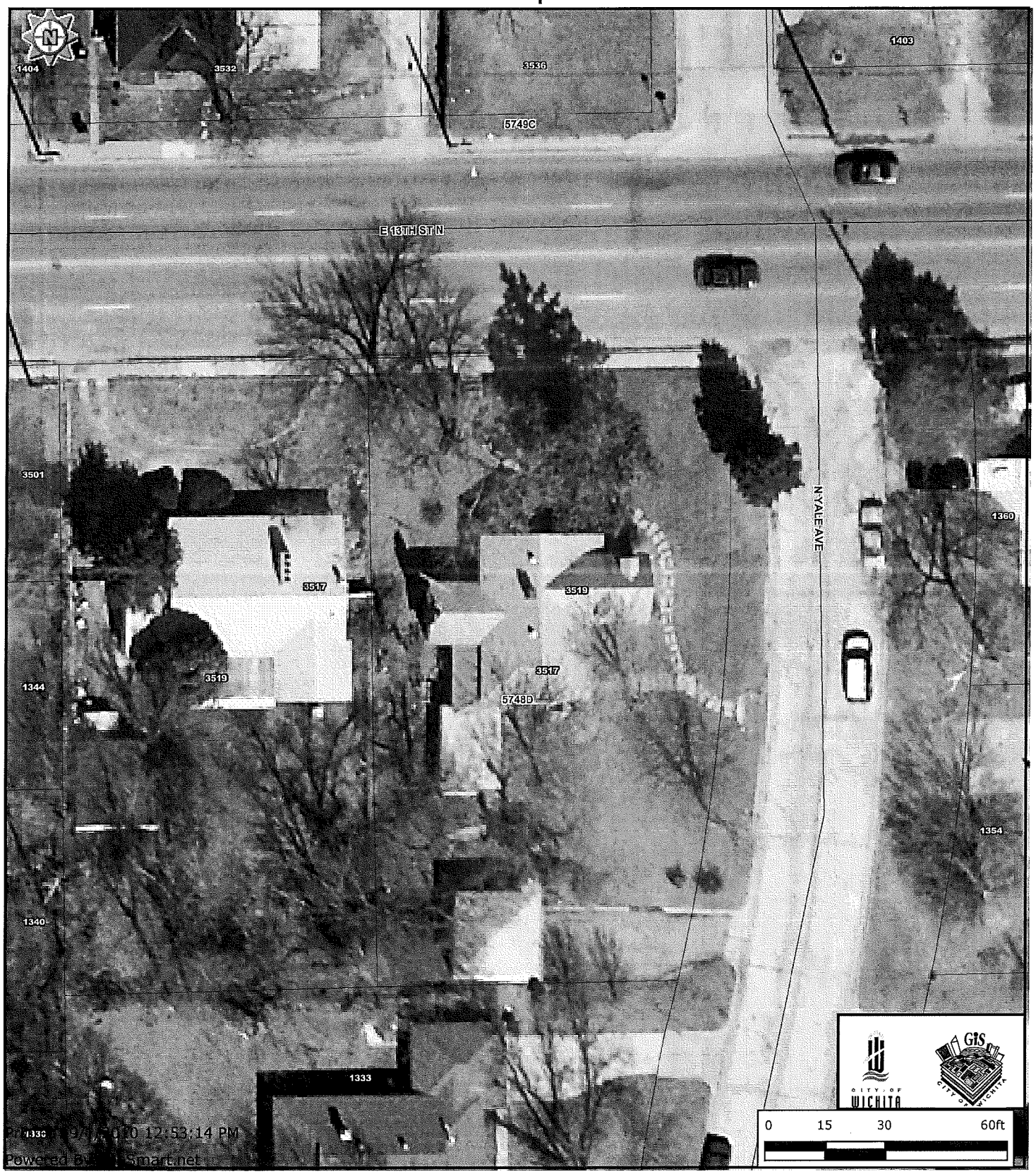
ALBERT LUCAS
SEC 14–T27–R1E

SCALE: 1" = 40'

Tract No. 73

3517 East 13th Street

Partial Acquisition



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-12f

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 1355 North Erie for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The improvements at 1355 North Erie are impacted by the proposed realignment. Built in 1954, the improvements were originally constructed for duplex use. The property was subsequently converted to single-family use.

Analysis: The owner agreed to sell the land with all of its improvements for the appraised value of $49,700, or $32 per square foot. The owner and tenant are eligible for certain relocation and reestablishment expenses.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $75,900 is requested. This includes $49,700 for the acquisition, $25,000 for relocation and reestablishment expenses and $1,200 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

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

PROJECT: 13th Street North **DATE:** 08/24/2010

COUNTY: Sedgwick **TRACT NO.:** 138

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 24th day of August, 2010, by and between

Worry Free Enterprise, Inc.

2500 East Central

Wichita, KS 67214

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 6,750 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 49,700.00

TOTAL: $ 49,700.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: _____
Omer Finney, President

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Worry Free Enterprise, Inc.

If mortgage or other liens, show names of holders:

None

REMARKS:

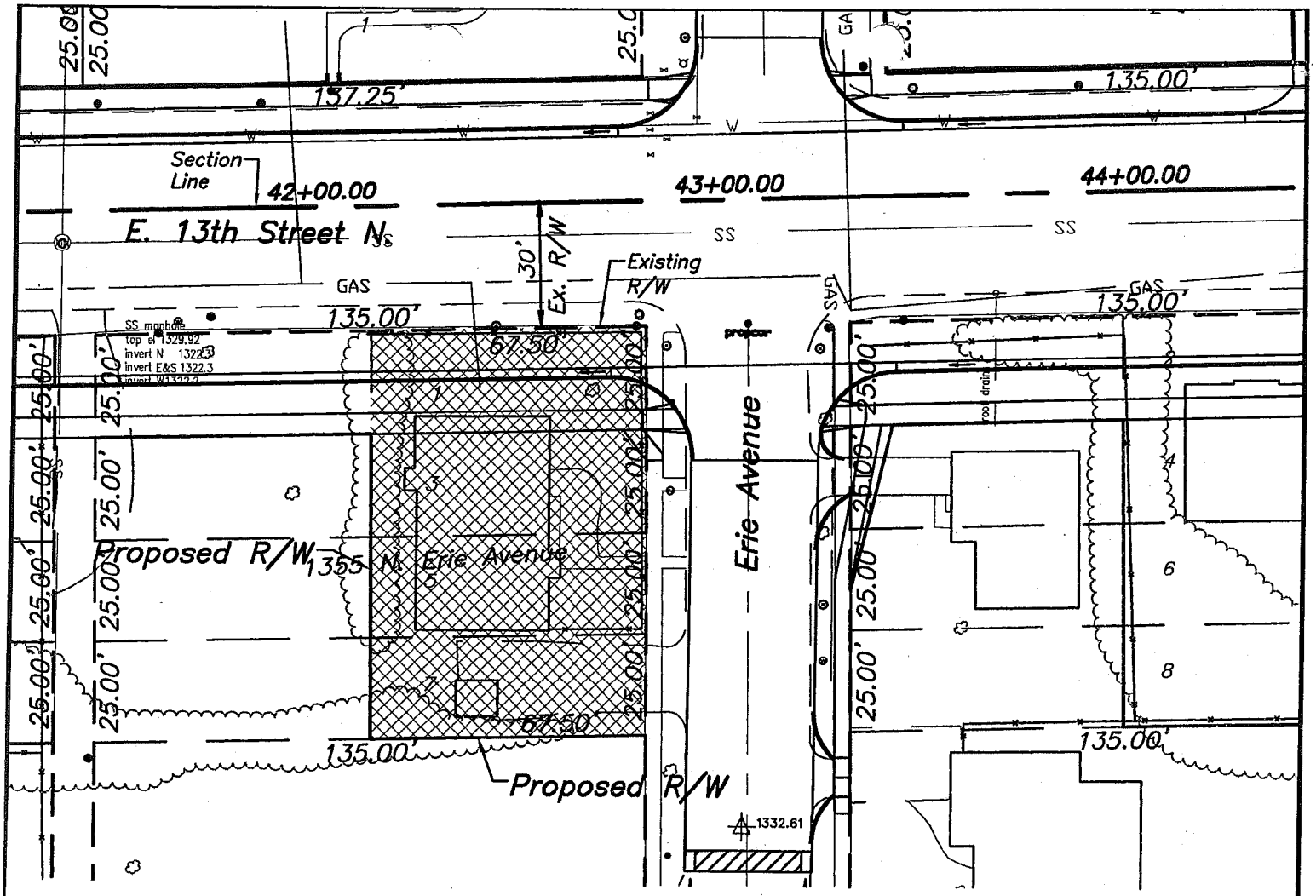
PIN/APN 1125150110400100
Security Title File Number 2000535

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

Part of the East half of Lots 1, 3, 5, & 7, on Mt. Vernon (now Erie Avenue) in Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows.

All of the East half of Lots 1, 3, 5, & 7, on Mt. Vernon (now Erie Avenue) in Fairmount Park Addition.

TAX KEY #: C02928

R/W ACQUISITION SIZE: 6,750 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

WORRYFREE ENTERPRISES INC.
SEC 15-T27-R1E

SCALE: 1" = 40'

Tract No. 138

1355 N Erie

Full Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition for Right-of-Way at 2102 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 11, 2010, the City Council approved the design concept and the funding to acquire right-of-way for the road improvement project 119th Street between Pawnee and Kellogg. The project will provide four through lanes on 119th Street and a traffic signal at the intersection of Pawnee and 119th. Landscaped medians, sidewalks and a bike path will also be constructed. The corridor is improved with residential properties, agricultural land and a church. The property at 2102 South 119th Street is improved with a single-family residence. Adjacent to the right-of-way line the City requires a ten foot strip of land as new road right-of-way. The proposed right-of-way consists of 3,550 square feet. There are mature trees within the acquisition area that will be impacted. No other improvements will be impacted by the project.

Analysis: The owner agreed to convey the necessary right-of-way for the estimated market value of $4,255. This amount consists of $2,755 for road right-of-way, or $0.78 per square foot and $1,500 for the loss of mature trees.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $4,505 is requested. This includes $4,255 for acquisition and $250 for closing costs and title insurance.

Goal Impact: The acquisition of this right-of-way is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

Legal Considerations: The Law Department approved the real estate purchase agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Agreement; 2) Authorize all necessary signatures; and 3) Approve the budget.

Attachments: Real Estate Agreement, tract map and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 26TH day of AUGUST, 2010 by and between Roy G. Rankin, Trustee of the Trust Agreement of Roy G. Rankin dated 10-23-2006, and Eleanor M. Rankin, Trustee of the Eleanor M. Rankin Trust Agreement dated 10-23-2006, hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

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

RIGHT-OF-WAY:
The East 10 feet of the West 50 feet of a tract described as: Beginning 615 feet South of the Northwest corner of the Southwest Quarter of Section 31, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 335 feet; thence South 355 feet; thence West 335 feet to a point on the West line of said Quarter; thence North 355 feet to the point of beginning, containing 0.082 acres (3550.00 sq. ft.), more or less.

TEMPORARY CONSTRUCTION EASEMENT:
The East 5 feet of the West 55 feet of the North 75 feet of the South 119 feet of a tract described as: Beginning 615 feet South of the Northwest corner of the Southwest Quarter of Section 31, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 335 feet; thence South 355 feet; thence West 335 feet to a point on the West line of said Quarter; thence North 355 feet to the point of beginning, containing 0.009 acres (375.00 sq. ft.), more or less.

2. The Buyer hereby agrees to purchase and pay to the Seller, as consideration for the conveyance of the above-described real properties together with any cost to cure and/or damages to the remainder the sum of Four Thousand Two Hundred Fifty-Five Dollars and No Cents ($4,255) in the manner following, to-wit: cash at closing.

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

Buyer will order title at its cost.

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

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before September 17, 2010.

6. The Seller further agrees to convey the above-described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer on closing date.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100 % by Buyer. Buyer will pay 100% closing costs.

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

SELLER:
Roy G. Rankin Trust Agreement dated October 23, 2006:

Roy G Rankin TRUSTEE
Roy G. Rankin, Trustee

Eleanor M. Rankin Trust Agreement dated October 23, 2006:

Eleanor M. Rankin, Trustee
Eleanor M. Rankin

BUYER:
The City of Wichita, Kansas, a municipal corporation

Carl Brewer, Mayor

ATTEST:

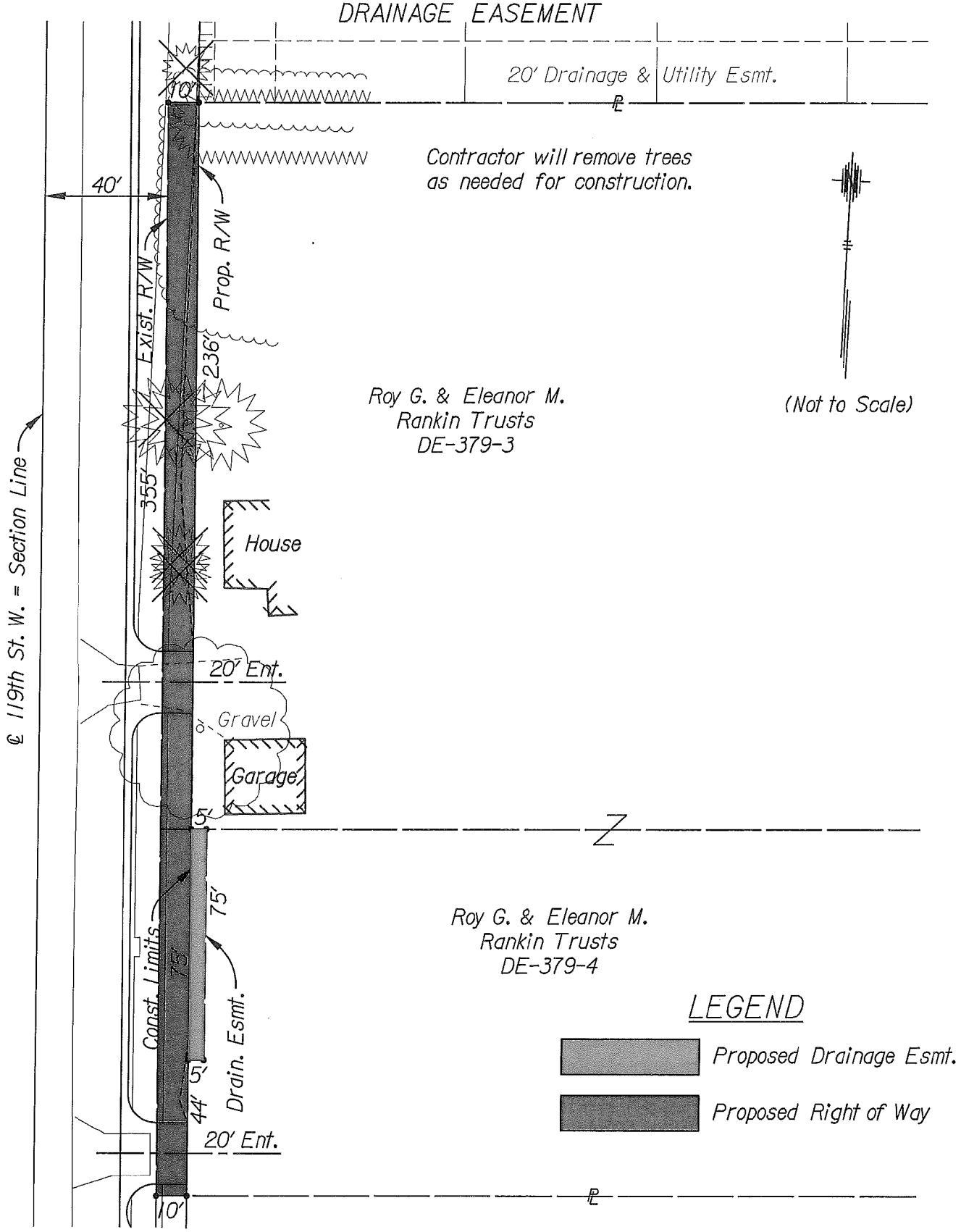
Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

TRACT MAP DE-379-3 & DE-379-4

RIGHT OF WAY & DRAINAGE EASEMENT



May 26, 2010

2102 South 119th Street West

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
September 14, 2010

TO: Mayor and City Council

SUBJECT: Partial acquisition of 12112 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119th Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. Construction of the project requires 11,761 square feet of the property, consisting basically of the easterly 25 feet of the property and a 50 by 50 foot corner clip at Kellogg. To provide adequate grading from the subject property to the road improvements, a 1,687 square foot temporary easement is required at the driveway. The immediate area of the property is zoned general commercial and is currently undeveloped. There is a medical office building on the westerly portion of the property.

Analysis: The proposed acquisition was appraised at $61,745 ($5.25 per square foot) and the temporary easement was appraised at $655 ($.38 per square foot). There is a business sign in the right of way that was not included in the appraisal. The owner rejected the offer and countered at $284,000 ($24.15 per square foot) based on perceived value of the frontage and impact on the remainder of the site. After review of comparable sales and negotiation, the seller agreed to accept $120,610. This consists of $117,610 ($10.00 per square foot) for the acquisition, $3,000 for the sign relocation and no compensation for the temporary easement.

Financial Considerations: The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of $122,610 is requested. This includes $120,610 for the easement and $2,000 for closing costs and related charges.

Goal Impact: The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

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

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

Attachments: Aerial map, tract map and real estate contract.

REAL ESTATE PURCHASE CONTRACT

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

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

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient special warranty deed the following described real property, situated in Sedgwick County, Kansas, to-wit:

   That part of Lot 5, Block 2, Wheatridge Addition to Sedgwick County, Kansas, lying East of a line described as follows: Beginning at a point 75 feet West of the Southeast Corner of said Lot 5; thence Northeasterly to a point 50 feet North of the South line of said Lot 5 and 25 feet West of the East line of said Lot 5; thence North, parallel with said East line, a distance of 225 feet; thence Northeasterly to a point on the North line of said Lot 5 and 35 feet West of the Northeast Corner of said Lot 5.

2. The parties agree to execute a document whereby the Seller grants to the Buyer a temporary construction easement (the "Easement") over the following described real property, situated in Sedgwick County, Kansas, to-wit:

   Commencing from a point on the South line of Lot 5, Block 2, Wheatridge Addition to Sedgwick County, Kansas, and 75 feet West of the Southeast Corner said Lot 5; thence Northeasterly to a point 50 feet North of said South line of said Lot 5 and 25 feet West of the East line of said Lot 5; thence North, parallel with said East line of said Lot 5, a distance of 225 feet to the point of beginning; thence Northeasterly to a point on the North line of said Lot 5 and 35 feet West of the Northeast Corner of said Lot 5; thence West along said North line of said Lot 5 a distance of 30 feet; thence South, parallel with said East line of said Lot 5, a distance of 75 feet; thence East, parallel with said North line of said Lot 5, a distance of 15 feet to the point of beginning.

   Such Easement document shall contain provisions addressing the following:

   a) The Seller shall, at all times, have unobstructed access to the property located at 12112 W. US Highway 54, Wichita, Kansas (the "Adjacent Property"), which access shall contain at least one paved lane for entry into the Adjacent Property and one paved lane for exit from the Adjacent Property. Such entry and exit lanes shall be of a slope and grade consistent with industry standards.
   b) Access to the Adjacent Property shall not be disrupted for more than 45 days as a result of the Buyer's exercise of its rights under the Easement.
   c) All work done within the Easement shall be conducted in the most expeditious manner reasonably possible to minimize the interference with the Seller's use of the Adjacent Property and the utility construction shall be diligently prosecuted to

completion.

d) The Buyer shall, with due diligence, repair, at its sole cost and expense, any and all damage caused by its work and shall restore the affected portion of the property, including all improvements located thereon, to a condition which is equal to or better than the condition in which it existed prior to the commencement of said work.

e) The Easement shall expire 30 days after the end of construction for the project.

3. Seller does hereby agree that there shall be one right in, right out access point to and from the abutting public roadway over and across a line in Lot 5, Block 2, Wheatridge Addition to Sedgwick County, Kansas, described as follows: Beginning at a point 75 feet West of the Southeast Corner of said Lot 5; FIRST COURSE, thence Northeasterly to a point 50 feet North of the South line of said Lot 5 and 25 feet West of the East line of said Lot 5; SECOND COURSE, thence North, parallel with said East line, a distance of 225 feet. Such right in, right out access shall be located a sufficient distance from the intersection of 119th and US Hwy. 54 as necessary to comply with City policies, codes and procedures. The rights and obligations of the parties under this Section 3 shall survive closing and shall run with the land, being binding on the parties' successors and assigns.

4. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of One Hundred Twenty Thousand Six Hundred and Ten Dollars and Zero Cents ($120,610.00) in the manner following to-wit: cash at closing. The foregoing amount includes the cost to relocate any existing signage of the Seller which is located within the areas described in Sections 1 and/or 2. As such, the Seller shall be responsible for the costs of any such relocation.

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

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

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

8. Seller shall place no encumbrances on the property during the period from execution of this contract to closing.

9. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before September 30, 2010.

10. Possession to be given to Buyer at closing

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

12. Site Assessment

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

13. Closing shall occur at Security 1st Title, 434 N Main, Wichita, KS.

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

BUYER:
City of Wichita, Kansas, a Kansas municipal corporation

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

SELLER:
Webb Road Partners, LLC
By: Transcontinent Holding Company,
Its Sole Member

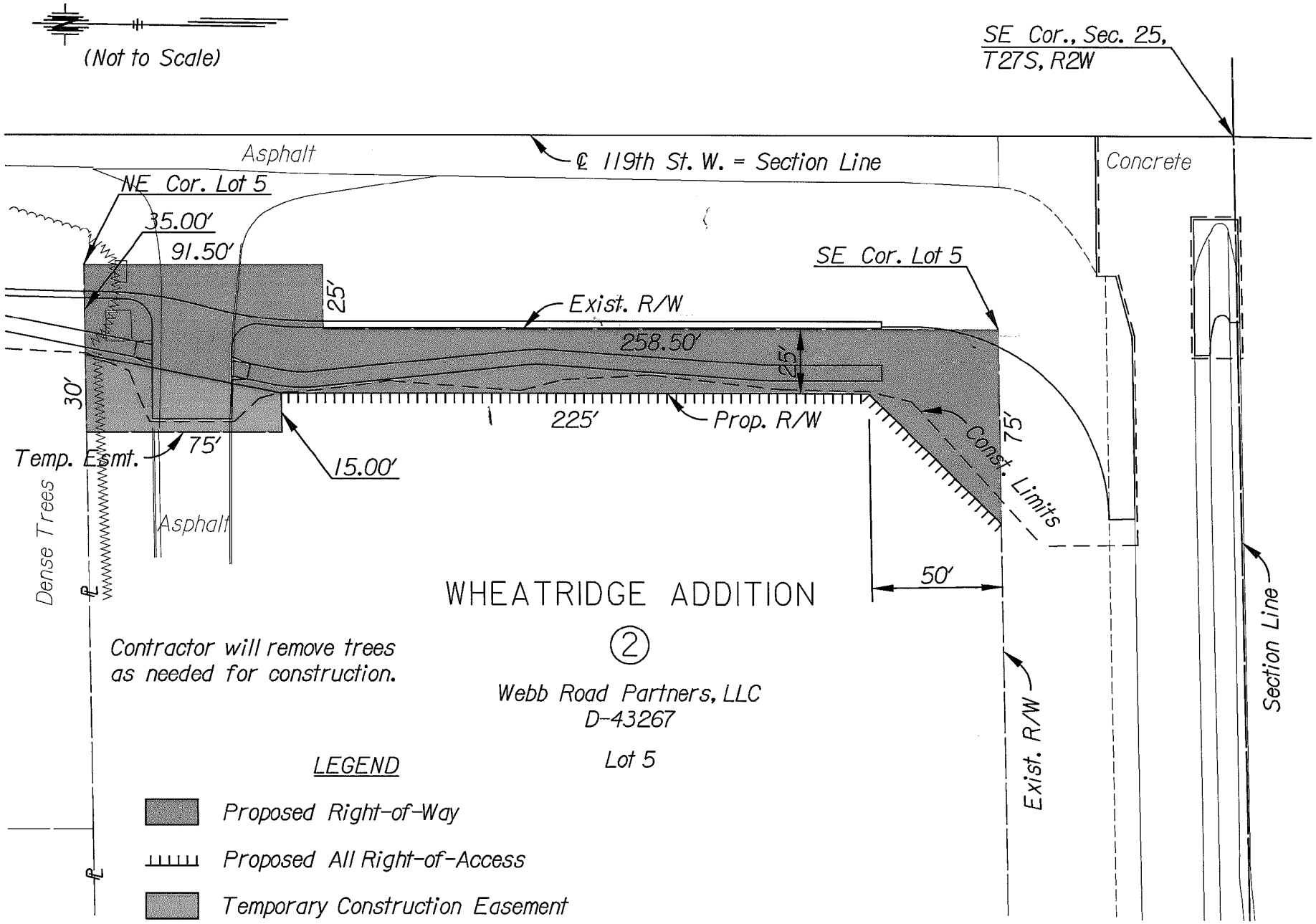
_____
Patrick D. Do, Manager

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

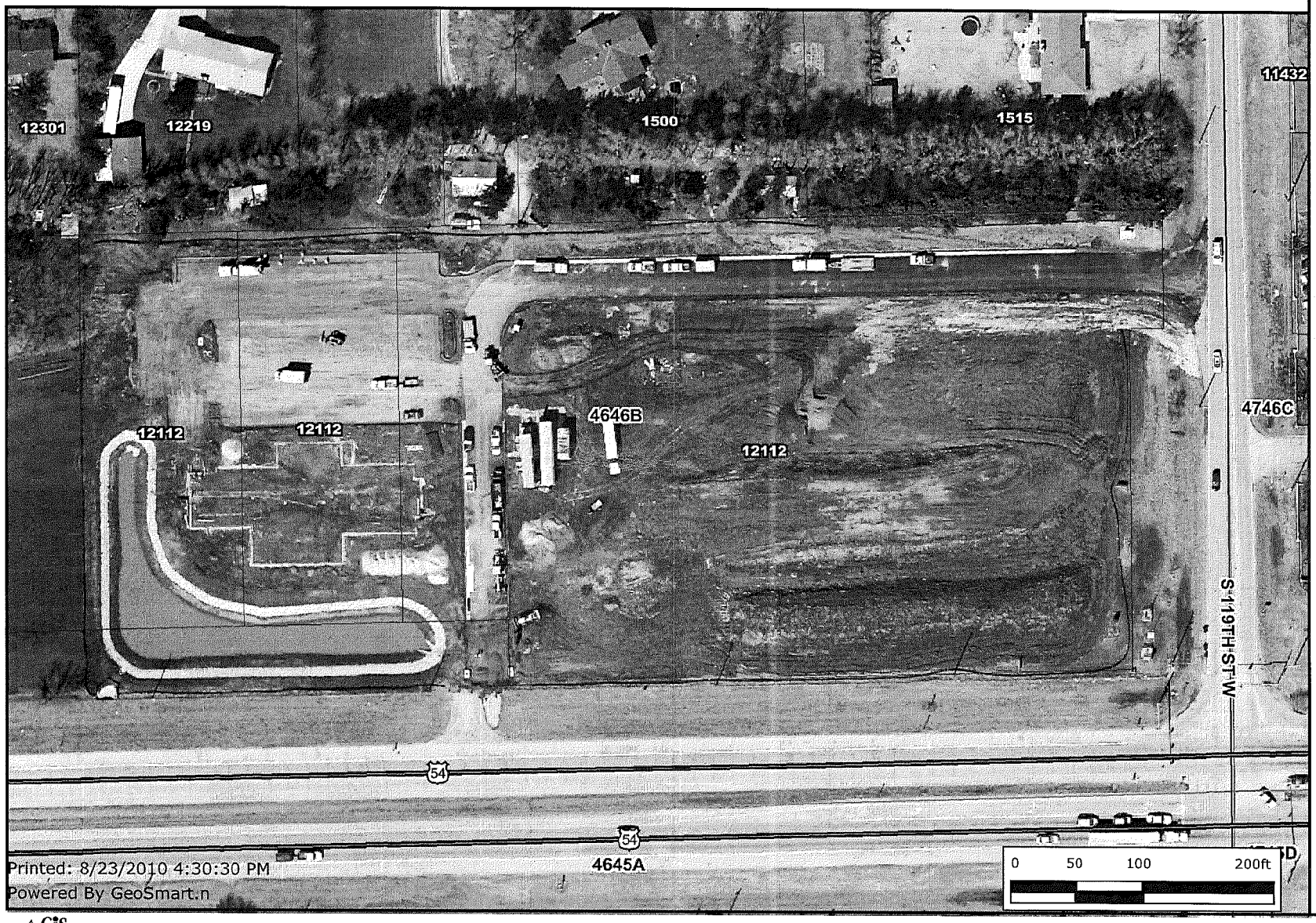
TRACT MAP D-43267

RIGHT-OF-WAY, ALL RIGHT-OF-ACCESS, TEMPORARY CONSTRUCTION EASEMENT



March 4, 2010

12112 West Kellogg



Identified Features

Property Parcels

Roads

State Highway

US Federal Highway

Interstate

KTA

Arterial

Collector

Minor

Ramp

Railroads

Quarter Section

Waterways

Streams

Parks

Airports

SDERASTER.S-DEDATA.ORTH-O1FT

SDERASTER.S-DEDATA.ORTH-O

City Limits

Andale

Bel Aire

Bentley

Cheney

Clearwater

Colwich

Derby

Eastborough

Garden Plain

Goddard

Haysville

Kechi

Maize

Mount Hope

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
September 14, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition for Right-of-Way at 2138 South 119th Street West for the 119th Street, Pawnee Avenue to Kellogg Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 11, 2010, the City Council approved the design concept and the funding to acquire a right-of-way for the road improvement project, 119th Street between Pawnee and Kellogg. The project will provide four through lanes on 119th Street and a traffic signal at the intersection of Pawnee and 119th. Landscaped medians, sidewalks and a bike path will also be constructed. The corridor is improved with residential properties, agricultural land and a church. The property at 2138 South 119th Street is improved with a single-family residence on a 0.93 acre site. Adjacent to the east right-of-way line, or west property line, it is necessary to acquire a ten foot strip of land for road right-of-way line. The proposed right-of-way consists of 1,400 square feet. There are two entrances to the subject property whereby the circle drive will require some reconfiguring. The residential improvements will not be impacted by the proposed acquisition.

Analysis: The owner agreed to convey the necessary right-of-way for the estimated market value of $1,550. This amount consists of $1,050 for road right-of-way, or $0.75 per square foot and $500 for the gravel driveway.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $2,200 is requested. This includes $1,550 for acquisition and $650 for closing costs and title insurance.

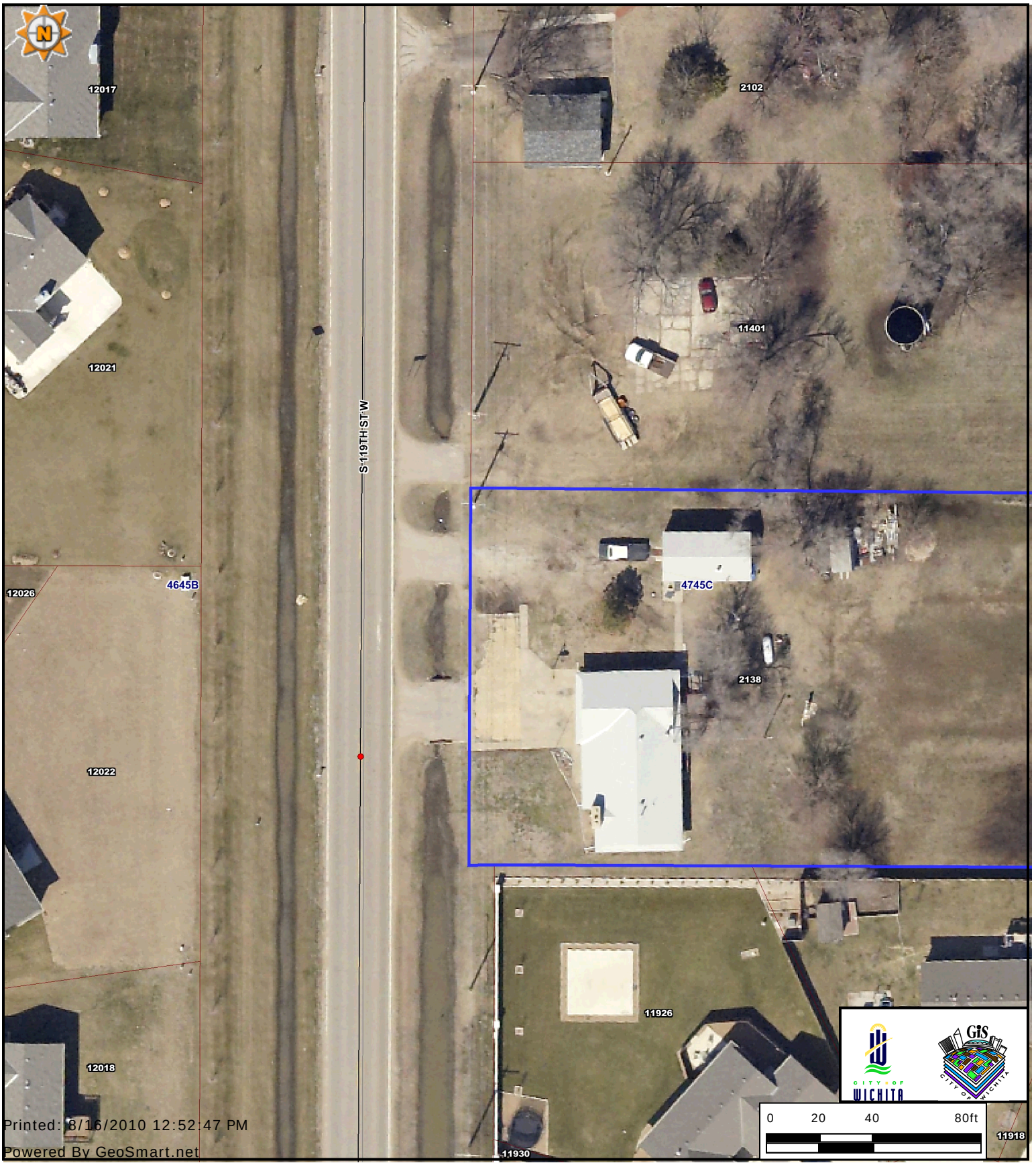
Goal Impact: The acquisition of this right-of-way is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

Legal Considerations: The Law Department approved the real estate purchase agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Agreement; 2) Authorize all necessary signatures; and 3) Approve the budget.

Attachments: Real Estate Agreement, tract map and aerial map.

2138 South 119th Street West



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.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this ___ day of _____, 2010 by and between Ronald and Carol Counter, husband and wife, hereinafter referred to as "Seller," whether one or more, and City of Wichita, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed for the following described real property as road right-of-way, temporary construction easement and damages including but not limited to: crops, all situated in Sedgwick County, Kansas, to wit:

The East 10 feet of the West 50 feet of a tract described as: Beginning at a point on the West line of the Southwest Quarter of Section 31, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas and 970 feet South of the Northwest corner of said Quarter; thence East 335 feet; thence South 140 feet; thence West 335 feet to a point on said West line; thence North 140 feet to the point of beginning, containing 0.032 acres (1,400 sq. ft.), more or less.

2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above described real properties and any damages to the remainder, the sum of One Thousand Five Hundred Fifty Dollars and No Cents ($1,550) in the manner following, to-wit: cash at closing.

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

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

6. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before September 17, 2010.

8. The Seller further agrees to convey the above described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

9. Possession to be given to Buyer on closing date .

10. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100% by buyer. Buyer will pay 100% closing costs.

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

SELLER:

Ronald Counter

Ronald Counter

Carol Counter

Carol Counter

BUYER:

ATTEST:

Carl Brewer, Mayor

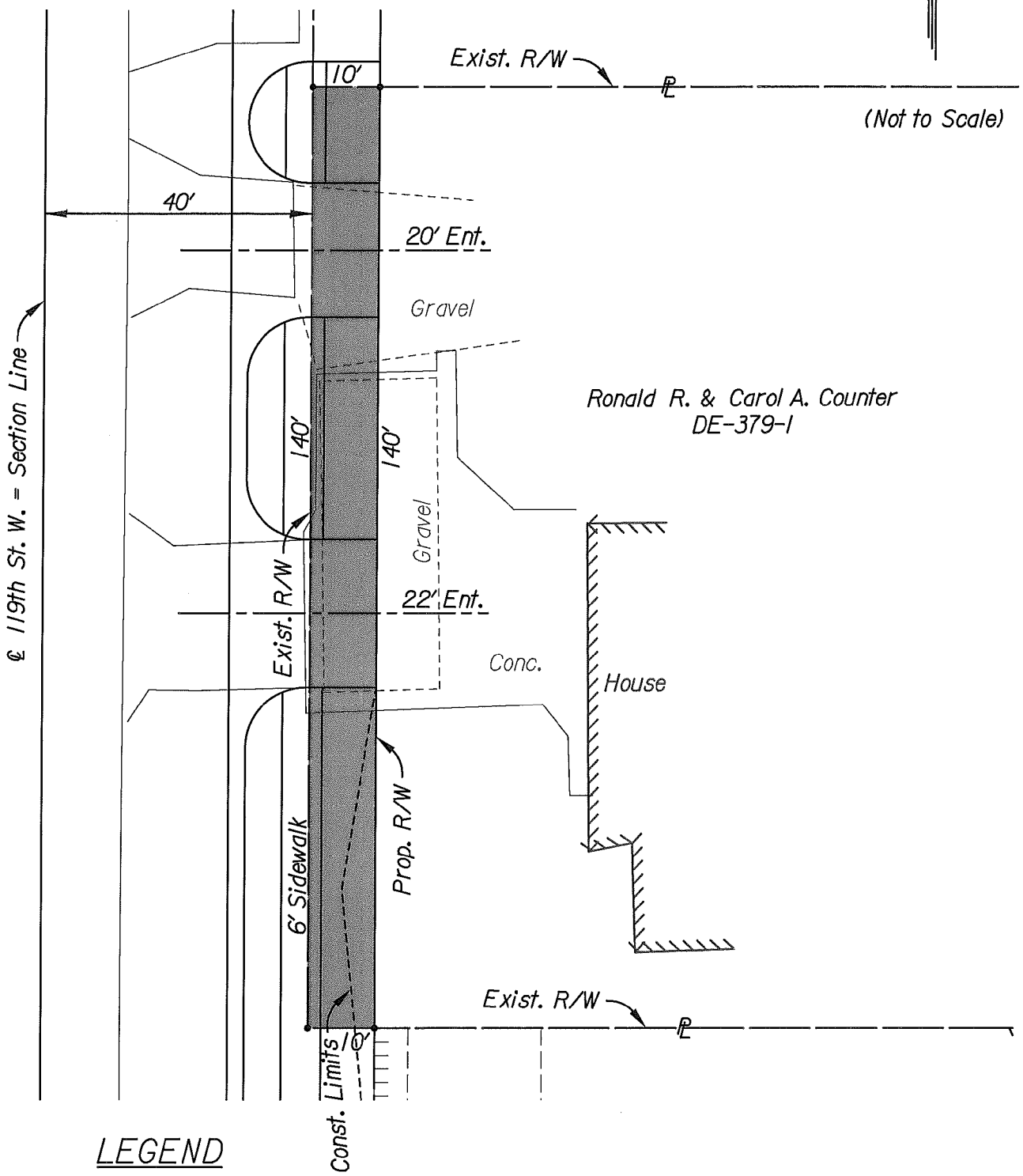
Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

TRACT MAP DE-379-1

RIGHT OF WAY



LEGEND

Proposed Right of Way

Mar. 3, 2010

Ronald R. & Carol A. Counter
2138 S 119th St. W.
Wichita, KS 67235-1824
DE-379-1

RIGHT-OF-WAY:
The East 10 feet of the West 50 feet of a tract described as: Beginning at a point on the West line of the Southwest Quarter of Section 31, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas and 970 feet South of the Northwest corner of said Quarter; thence East 335 feet; thence South 140 feet; thence West 335 feet to a point on said West line; thence North 140 feet to the point of beginning, containing 0.032 acres (1400.00 sq. ft.), more or less.

CITY OF WICHITA
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of a Temporary Easement at 11910 West Pawnee for the 119th Street, Pawnee Avenue to Kellogg Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On May 11, 2010, the City Council approved the design concept and the funding to acquire right-of-way for the road improvement project 119th Street between Pawnee and Kellogg. The project will provide four through lanes on 119th Street and a traffic signal at the intersection of Pawnee and 119th. Landscaped medians, sidewalks and a bike path will also be constructed. The corridor is improved with residential properties, agricultural land and a church. The site at 11910 West Pawnee consists of 17 acres and is improved with a church. No improvements will be impacted by the proposed acquisition.

Analysis: The owner agreed to dedicate the necessary temporary construction easement. There is no cost to the City.

Financial Considerations: The funding source for the project is General Obligation Bonds. It is not necessary to establish a budget for this acquisition.

Goal Impact: The acquisition of this right-of-way is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

Legal Considerations: The Law Department approved the real estate purchase agreement as to form.

Recommendation/Action: It is recommended that the City Council; 1) Approve the Real Estate Agreement and 2) Authorize all necessary signatures.

Attachments: Real Estate Agreement, tract map and aerial map.

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT, Made and entered into this 18 day of 2010, 2010 by and between Asbury United Methodist Church, Inc., hereinafter referred to as "Seller," whether one or more, and City of Wichita, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

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

1. The Seller does hereby agree to donate and convey to the Buyer by donation the following described temporary easement for construction situated in Sedgwick County, Kansas, to wit:

> Commencing from the Southwest corner of Lot 1, Block 1, Prairie Crossroads United Methodist Church Addition to Wichita, Sedgwick County, Kansas; thence N 02°18'05"E, along the West line of said Lot 1, a distance of 175.00 feet to the point of beginning, said point being a deflection on said West line; thence N 11°44'05"W, along said West line, a distance of 103.08 feet to a defection point on said West line; thence N 02°18'05"E, along said West line, a distance of 150.00 feet; thence S 03°24'33"E for a distance of 251.25 feet to the point of beginning, containing 0.043 acres (1875.00 sq. ft.), more or less.

2. The Seller hereby agrees to donate to the Buyer the above-described real property in lieu of compensation. Buyer hereby agrees to install Seller's driveway entrance as indicated in item 9.

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

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

5. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before October 1, 2010.

6. The Seller further agrees to convey the above-described premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are, reasonable wear and tear excepted.

7. Possession to be given to Buyer on or before October 1, 2010.

8. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid 0% by seller and 100 % by Buyer. Buyer will pay 100% closing costs.

9. Buyer hereby agrees to install a curb cut during construction of the 119th Street: Pawnee to Kellogg Road Improvement Project for access to the site. Said access point is designated on attached aerial map of subject property, Exhibit A.

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

SELLER:
Asbury United Methodist Church, Inc.

BUYER:
The City of Wichita, Kansas, a municipal corporation:

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

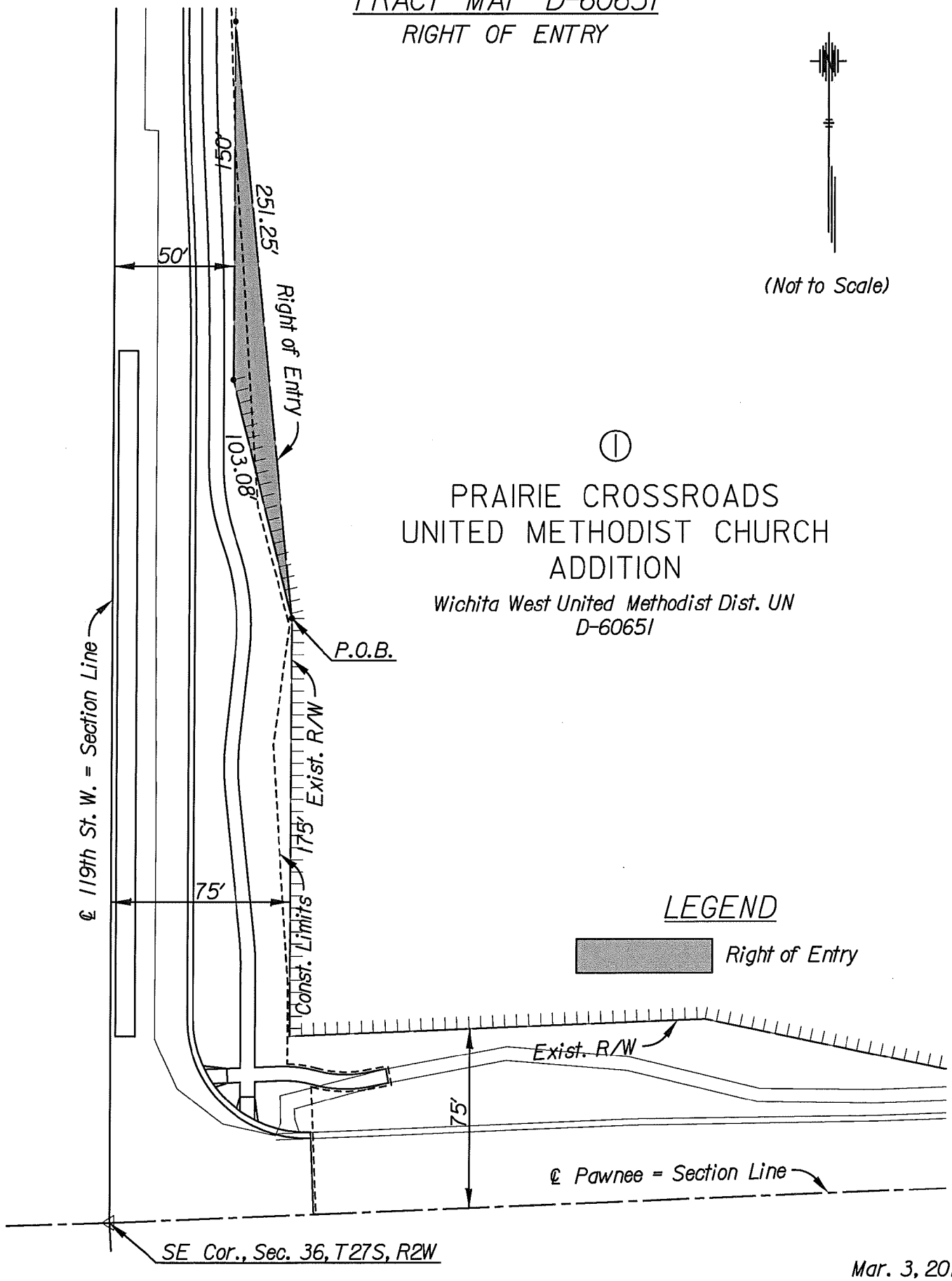
Gary E. Rebenstorf, Director of Law

EXHIBIT A

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.

TRACT MAP D-60651

RIGHT OF ENTRY



Senior Management Expenses
For the Month of June

Employee by Department	Purpose	Amount
03-Finance		
Rob Raine, Assistant Finance Director	STAR Bond meeting, Topeka, KS	$ 152.75
04-Law		
Gary Rebenstorf, Director of Law	International Municipal Layer's Association, Dallas, TX	848.99
09-Housing & Community Services		
Mary K Vaughn, Director of Housing & Community Services	Conference of the National Community Development Association, Seattle, WA	1,563.00
10-Library		
Cynthia Berner-Harris, Director of Libraries	Urban Library Directors Meeting, Topeka, KS	130.70
Total		**$ 2,695.44**

Senior Management Expenses
For the Month of July

Employee by Department	Purpose	Amount
07-Fire		
Ron Blackwell, Chief	Missouri Valley Fire Chief's Conf., Colorado Springs, CO	$ 962.39
08-Police		
Tom Stolz, Deputy Chief	Senior Management Institute for Police, Boston, MA	9,668.30
10-Library		
Cynthia Berner-Harris, Director of Libraries	KS Library Association Council quarterly meeting, Topeka, KS	131.03
Cynthia Berner-Harris, Director of Libraries	KS Library Task Force for the Overdrive Downloadables, Topeka, KS	130.42
Total		**$ 10,892.14**

CITY OF WICHITA
City Council Meeting

September 14, 2010

TO: Mayor and City Council Members

SUBJECT: Settlement of Claim

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of $20,000 as a settlement of this claim.

Background: This claim arose from an August 12, 2009 collision between a city vehicle driven by an employee in Public Works and a bicycle. The bicyclist, Marshall Villa, sustained personal injuries, medical expenses, and lost wages.

Analysis: The claimant has offered to accept a lump sum payment of $20,000.00 as settlement of his claim against the City. Because of the uncertainty and risk of a significant adverse judgment, the Law Department recommends acceptance of the offer.

Financial Considerations: Funding for this settlement payment is from the City's Tort Claims Fund.

Goal Impact: Payment of the sum contributes to the City goal of providing a safe and secure community. It provides certain resolution to a contingent liability.

Legal Considerations: The Law Department recommends acceptance of the offer of settlement.

Recommendations/Actions: It is recommended that the City Council authorize payment of $20,000 as a full settlement of all possible claims which were made or could have been made in the claim.

Attachments: None.

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: Sunflower Trails Grant for Harvest Park. (District V)

Initiated By: Department of Park and Recreation

Agenda: Consent

Recommendation: Accept the grant funds.

Background: The Sunflower Foundation developed a Request for Proposal to help increase physical activity to build community based recreational walking or multi use trails. The goal of the program is to improve the health of students, families and communities by creating new or expanded public trails to increase the opportunity for physical activity.

The City Council approved the grant application on July 20, 2010.

Analysis: Harvest Park is located at 9500 Provincial Lane in west Wichita and the land is owned by the Board of Park Commissioners. Sidewalks have been previously installed on the south and east sides of the park. Harvest Park amenities include a pool, two tennis courts, a multi-use basketball court and parking lot with McCollum Elementary School being located on the southeast side of the park.

The Department of Park and Recreation was notified on August 24, 2010 that the grant was awarded for improvements at Harvest Park. The grant will provide partial funding to install approximately 1900 feet of walking pathway/trail on the north and west sides of the park. The walking pathway/trail will be four inch reinforced concrete by-five feet wide.

Financial Consideration: The grant award is for $16,575, matching funds are required. The estimated cost of the project is $41,150. The remaining $24,575 in matching funds will come from the 2010 Park Renovation Fund (PFR) in the Park Continuous Improvement Projects.

Goal Impact: The completed trail will provide a safe connection to the neighborhood elementary school, increase wellness opportunities by creating an exercise loop around the park, increase access to existing park facilities and improve the Quality of Life for neighboring citizens. These objectives are in line with the Mayor's Health Initiative, as well as the PROS plan.

Legal Consideration: None.

Recommendation/Actions: Accept the grant funds, authorize the project and authorize all necessary signatures.

Attachment: None.

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Woodlawn Improvement, between Harry and Lincoln (Districts II & III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the project.

Background: Kansas Department of Transportation officials have advised that leftover American Recovery and Reconstruction Act (ARRA) funding is available for street improvements. It is proposed that the funds be used for major repairs to Woodlawn, between Harry and Lincoln.

Analysis: The work consists of an asphalt mill and overlay, and some concrete repair. The project is planned to begin March, 2011, and be completed in late summer.

Financial Considerations: A total of $128,824 in ARRA funding is available at this time for the project. The estimated project cost is $298,824. Contract Street Maintenance operating funds in the amount of $170,000 are available to fund the balance of the project. It will be necessary to shift the budget authority from a contractual expense to a transfer expense, in order to appropriately record the City's cost on this project. The transfer will occur this year. An ordinance has been prepared to authorize temporary financing for the project.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing needed street maintenance.

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

Recommendation/Action: It is recommended that the City Council approve the project, place the ordinance on first reading, authorize the necessary budget adjustment and authorize the signing of State/Federal agreements as required.

Attachments: Map and ordinance.

132019

First Published in the Wichita Eagle September 24, 2010

ORDINANCE NO. 48-833

AN ORDINANCE DECLARING **WOODLAWN, BETWEEN LINCOLN AND HARRY (472-84851)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

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 **Woodlawn, between Lincoln and Harry (472-84851)** 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 **Woodlawn, between Lincoln and Harry (472-84851)** as a main trafficway in the following particulars:

The reconstruction of a roadway as necessary for a major traffic facility.

SECTION 3. The cost of the construction of the above described improvements is estimated to be **Two Hundred Ninety-Eight Thousand Eight Hundred Twenty-Four Dollars ($298,824)** exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements is not paid by Federal Grants, administered by the Kansas Department of Transportation, the City of Wichita, Kansas is authorized to issue general obligation bonds to pay such costs under the authority of K.S.A. 12-689 up to a maximum amount of $298,824, exclusive of the cost of interest on borrowed money.

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, Kansas 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 21st day of September, 2010.

_____
CARL BREWER, MAYOR

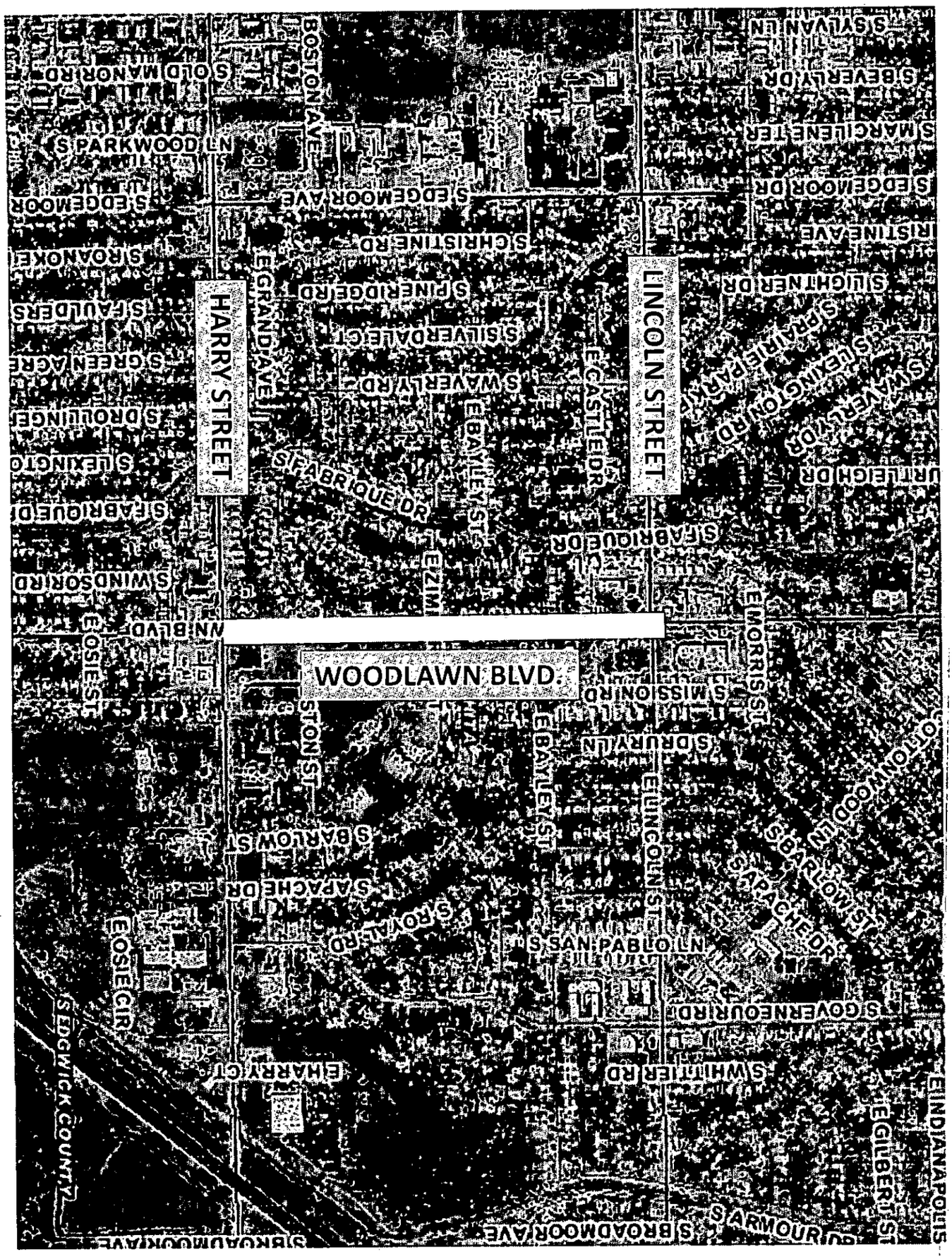
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW


HARRY STREET
LINCOLN STREET
WOODLAWN BLVD.
S PARKWOOD LN
S EDGEMOOR AVE
S CHRISTINE RD
S PINERIDGE RD
S SILVERDALE CT
S WAVERLY RD
S FABRIQUE DR
E BAYLEY ST
E CASTLE DR
E GRAND AVE
BOSTON AVE
S OLD MANOR RD
S SYLVAN LN
S BEVERLY DR
S MARCILENE TER
S EDGEMOOR DR
S LIGHTNER DR
S PRAIRIE PARK
S LEXINGTON RD
S WAVERLY DR
S FABRIQUE DR
S WINDSOR RD
E OSIE ST
E MORRIS ST
S MISSION RD
S DRURY LN
E LINCOLN ST
S BARLOW ST
S APACHE DR
S ROYAL RD
S SAN PABLO LN
S GOVERNEOUR RD
S WHITTIER RD
E HARRY CT
E OSIE CIR
S EDGWICK COUNTY
S BROADMOOR AVE
S ARMOUR DR
E GILBERT ST
E INDIANAPOLIS

City of Wichita
City Council Meeting
September 14, 2010

TO:	Mayor and City Council
SUBJECT:	Complete phase II design and rehabilitation of the screw pump station modification at the Lower Arkansas River Water Quality Reclamation Facility (All Districts)
INITIATED BY:	Department of Water Utilities
AGENDA:	Consent

- -

Recommendation: Authorize transfer of $500,000 within the approved Capital Improvement Program to complete phase II of the screw pump station rehabilitation. Authorize staff to pursue this project using a design/build methodology.

Background: In 1989 modifications were made to Sewage Treatment Plant No. 2, which allowed the facility to achieve secondary treatment. Part of these improvements involved construction of a screw type pump station which has been in continuous service since that time. Over the last year, this station has experienced severe failure resulting in the loss of two-thirds of its original pumping capacity.

Recently, phase one of a two phase screw pump station rehabilitation project was completed as an exigency project. This phase of the project used the extra pumping capacity of an adjacent station to replace some of the capacity lost by the screw pump failures. Although this project has been very successful at recovering a portion of the lost capacity, it is expected that additional screw pump failures are imminent and therefore additional modifications are needed to avoid another exigency need.

Analysis: Sewage Treatment Plant No. 2 requires at least 75 million gallons per day of pumping capacity at the intermediate portion of the plant. This capacity was previously supplied by the screw pumps. Phase one of the rehabilitation project recovered 40 million gallons per day of the lost capacity. Staff is recommending that the additional capacity requirements be recovered through the installation of multiple centrifugal pumps. These additional pumps will recover the remaining capacity losses and by the installation of variable speed drives, the pumps will provide the required intermediate flow variation.

Staff is requesting to use design/build methodology to ensure that the project is completed in the timeliest manner. The requirements of this project are clearly definable and therefore it would be easily completed using design build techniques.

Financial Considerations: The project cost for Phase II of the Screw Pump project (S-017) is estimated to be $540,000. Budget monies are available within the current approved CIP as follows: $40,000 remaining budget from the completion of Phase I of the Screw Pump Replacement (S-017), along with a transfer of $500,000 from Four Mile Creek Plant Improvements Phase 2 (S-530). The Four Mile Creek project is a five-year $12.4 million project which will be postponed to begin in 2011. Staff will seek bids for design/build services not to exceed this amount.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing needed sewage treatment capacity.

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

Recommendations/Actions: It is recommended that the City Council: approve the project expenditure for 2010, transfer $500,000 within the current approved CIP from the Four Mile Creek project (S-530) to the Screw Pump project (S-017), in order to complete phase two of the Screw Pump Project, authorize staff to pursue phase two of the screw pump rehabilitation using design/build methodology, adopt the amended resolution; and authorize the necessary signatures.

Attachments: Resolution and Notice of Intent.

RESOLUTION NO. 10-244

A RESOLUTION AMENDING RESOLUTION NO. **10-083** PERTAINING TO THE **SCREW PUMP STATION REPAIR (S-17)** 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:

SECTION 1. That Section 1 of Resolution No. **10-083** is hereby amended to read as follows:

> "**SECTION 1.** It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas **Water and Sewer Utility** such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, **Screw Pump Station Repair (S-17) (**called the "Project"). The total costs of the Project are estimated to be **$929,000** exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project."

SECTION 2. That Section 3 of Resolution No. **10-083** is hereby amended to read as follows:

> **"SECTION 3.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed **nine hundred twenty-nine thousand dollars ($929,000) in 2010** exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose."

SECTION 3. That the original of Sections 1 and 3 of Resolution **10-083** is hereby rescinded.

Adopted at Wichita, Kansas, September 14, 2010.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

OCA: _624097___

(Published in the Wichita Eagle, on September 17, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $ 929,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 10-244, duly adopted September 14 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Screw Pump Station Repair (S-017) (called the "Project"). The total costs of the Project are estimated to be nine hundred twenty-nine thousand dollars ($929,000). The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $929,000 under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 14, 2010.

/s/ CARL BREWER, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Redbud Multi-Use Path (District I)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Adopt the resolution.

Background: On June 8, 2010, the City Council accepted a grant from the Kansas Department of Health and Environment (KDHE) to construct Phase 1 of the Redbud multi-use path. The project includes City participation in the funding. A resolution has been prepared to authorize temporary financing and bonding authority for the project.

Analysis: The Phase 1 work will construct segments of the multi-use path along the former Burlington Northern Santa Fe Railway between the I-135 Freeway and Hillside.

Financial Considerations: The approved project budget is $300,000 with $200,000 funded by the KDHE grant and $100,000 by City General Obligation bonds. Funding for the City share is included in the Capital Improvement Program.

Goal Impact: This project addresses the Efficient Infrastructure goal by constructing a portion of a multi-use path.

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

Recommendation/Action: It is recommended that the City Council adopt the resolution and authorize the signing of State/Federal agreements as required.

Attachments: Resolution.

132019

First Published in the Wichita Eagle on September 17, 2010

RESOLUTION NO. 10-245

A RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO CONSTRUCT THE REDBUD MULTI-USE PATH (472-84934).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The design and construction of a multi-use path along the former BNSF Railway, between the I-135 Freeway and Hillside.

SECTION 2: The cost of the construction of the above described improvements is estimated to be Three Hundred Thousand Dollars ($300,000) exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements is not paid by Federal Grants, administered by the Kansas Department of Health and Environment, the City of Wichita, Kansas is authorized to issue general obligation bonds to pay such costs up to a maximum of $300,000, exclusive of the cost of interest on borrowed money.

SECTION 3: That the advisability of said improvements is established and authorized by City of Wichita Charter Ordinance No. 156.

SECTION 4: That this resolution shall take effect and be in force from and after its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 14th day of September, 2010.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW

Agenda Item No. XII-20

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Community Event to be held at Naftzger Park with Cereal Malt Beverage consumption – Resolution, 2010 Wichita Wagonmasters Chili Cookoff (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the Resolution.

Background: A community event application with cereal malt beverage (CMB) consumption allowed and requesting the use of Naftzger Park property has been submitted for 2010 Wichita Wagonmasters Chili Cookoff, scheduled for September 25, 2010. In accordance with Section 3.11.065(d) of the Code of the City of Wichita and the Community Events Procedure, a resolution is required, authorizing consumption of alcoholic liquor on sidewalks and on public streets which have been closed to motor vehicle traffic during such licensed community event. The City Council approved the request for closure of the streets involved in this event on September 14, 2010. Further, in accordance with Section 9.03.070(b), review of the City Council is sought for the use of Naftzger Park for this event since it is a major impact activity. Upon review of the community event application for this event, a copy of which is attached hereto, and upon consideration of the factors set forth in Sections 3.11.080 and 9.03.170(b)(1) – (5) of the code of the City of Wichita, the Council shall determine if such approval should be given.

Analysis: Staff has reviewed the application for the community event with consumption of CMB allowed and use of Naftzger Park property, and based upon the factors set forth in Sections 3.11.080 and 9.03.170(b)(1) – (5) of the City Code, finds that all of the criteria set forth therein have been met and recommends approval of the event permit.

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: The Resolution has been prepared and approved by the Law Department.

Recommendation/Actions: It is recommended that the City Council approve the Resolution.

Attachments: Resolution and Community Event Application for the 2010 Wichita Wagonmasters Chili Cookoff.

RESOLUTION NO. 10-246

A RESOLUTION AUTHORIZING THE CONSUMPTION OF CEREAL MALT BEVERAGE ON PUBLIC STREETS AND THE USE OF NAFTZGER PARK PROPERTY DURING THE 2010 WICHITA WAGONMASTERS CHILI COOKOFF EVENT

WHEREAS, the city recognizes that substantial commuity benefits may result from community events. They can provide cultural enrichment, promote economic viatlity and enhance community identity. FuRther, events within the downtown area will serve to promote the area and community development.

WHEREAS, the City Council has approved as a community event, the 2010 Wichita Wagonmasters Chili Cookoff, to occur on September 25, 2010.

WHEREAS, the Wichita Wagonmasters, Inc., have requested permission to use Naftzger Park property as part of this community event, which use is subject to City Council approval pursuant to Sections 9.03.070(b) and 9.03.170.

WHEREAS, the City Council has approved the following streets to be closed to vehicular traffic for such event from 6:00 a.m. to 5:00 p.m. on September 25, 2010: Douglas Avenue from Emporia east to the Rail Road Bridge and St. Francis Street from ½ block North of Douglas Avenue to East William Street.

WHEREAS, a license from the City of Wichita for the sale and consumption of cereal malt beverage at the 2010 Wichita Wagonmasters Chili Cookoff has been approved by the City Council on August 3, 2010 and will be issued by the City of Wichita upon the presentation of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERING BODY OF THE CITY OF WICHITA, KANSAS AS FOLLOWS:

1. Pursuant to Sections 4.12.195(b) and 3.11.065(d) of the Code of the City of Wichita, and in consideration of the factors set forth in Section 3.11.080 of the Code of the City of Wichita, the consumption of cereal malt beverage upon the city streets, sidewalks

and public right of ways which are located within the designated event area of the 2010 Wichita Wagonmasters Chili Cookoff to occur on September 25, 2010 is hereby approved.

2. Pursuant to, and in consideraton of the factors set forth in 9.03.170(b)(1) – (5) of the Code of the City of Wichita, the use of Naftzger Park property for the duration of the 2010 Wichita Wagonmasters Chili Cookoff to occur on September 25, 2010 is hereby approved.

ADOPTED by the governing body of the City of Wichita, Kansas, this 14th day of September, 2010.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett
City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

7/22/2010

CITY OF WICHITA

COMMUNITY EVENT APPLICATION

Temporary Entertainment District

Applications must be submitted to:

Division of Arts & Cultural Services | 334 N. Mead | Wichita, KS 67202
(W) 316-462-2787 (F) 316-858-7960 csclark@wichita.gov

Completion of a Community Event Application is required when all of the following conditions apply: *The City of Wichita defines a Community Event as follows:*

- Outdoor event on public and/or private property
- Attendance in excess of 50 persons on public property and/or 250 persons on private or park property. *Excludes invitation only events taking place on private property.*
- Involves a particular purpose and time.

Any or all conditions below may apply to an Event: Some conditions require a separate permit, which may require City Council approval. The need for additional permits will be noted when applicable.

General Information:
The City of Wichita may refuse any application submitted less than 45 days before the event or lacking requested information. Applications are subject to approval of all departments involved and will be required to provide the following:

- Competed Application must be filed with the Community Event Coordinator 45 days in advance of the event date.
- Application filing fee made payable to City of Wichita
- Certificate of Liability Insurance naming the City of Wichita as additionally insured.
- Site map defining placement of alcohol point of sale, barricade locations, exit location portables, trash, signage, etc.
- Traffic flow plan defining street closure
- Security requirements including hiring of certified law enforcement officers
- Vendor list including contact person and contact information

Application Date: **July 20, 2010**

Event Title: **2010 Wichita Wagonmasters Chili Cookoff**

Date(s)/Time: **September 25, 2010 6:00am to 5:00pm**

Address for Permit: **600 East Douglas Wichita KS**

Property *(Circle all that apply)*: **PUBLIC streets and surrounding area**

Event Promoter: **Wichita Wagonmasters c/o Devin Hansen**

Address: **PO Box 1106 Wichita KS 67201**

Phone: **(_316_) 634-1700** **Mobile:(_316_) 393-6320**

Email: **dhansen@sunflowertravel.com**

7/22/2010

CITY OF WICHITA

Onsite Alcohol Supervisor Name: **Brad Fitts**

Address: **1100 Woodridge Wichita, KS 67206**

Phone: **(_316_) 267-0600** **Mobile:** **(_316_) 617-4266**

Email: bradfitts@bradfitts.com

Type of Event – (Circle all that apply)
Live Entertainment **Portable Amusement Rides** **Other: Chili Cookoff**

Attendance: **PUBLIC**

Estimated Attendance: **3.000**

Number of participants in previous years: **32 Participating Teams last year with total attendance estimated at 2,800**

Will admission be charged? **No admission will be charged, but in order to sample the chili a tasting kit will have to be purchased for $5**

Is this event a fundraiser? **Yes. The funds raised go to fund college scholarships for local students. The Wichita Wagonmasters give two annual scholarships totaling $5000 to high school seniors planning to attend any Kansas school. We are a 501 c3 tax exempt organization**

Description of Event: **The event is a Chili Cookoff competition where we expect 30 to 50 teams to compete for various prizes including a ICS (International Chili Society) competition category. The winner of this category will be invited to attend the World Chili Cookoff competition. We will have live bands and expect 3000 people to attend the event sampling the different chili.**

Street Closure Requested *(Circle One):* **YES**

Date(s)/Time/Location of Street Closures:

Streets requested for closure from 6:00am until 5:00pm on September 25, 2010 are as follows:

1. **Douglas street from Emporia east to the Rail Road Bridge.**
2. **North St Francis Street from ½ block North of Douglas to East William Street**

7/22/2010

CITY OF WICHITA

The 2010 Wichita Wagonmaster Chili Cookoff will follow the same traffic flow plan as in prior years. We will be securing the following barricades from Highway Technologies:

1- Type 3 with Road Closed Sign for Douglas and Mead
1- Type 3 with Road Closed – Local Traffic Only at 1st and St Francis
2- Type 3 with Road Closed Signs at Douglas and St Francis
1 – Type 3 with Road Closed Sign at Douglas and Emporia
1 – Type 3 with Road Closed – Local Traffic Only at Douglas and Washington
1- Road Closed Ahead Sign at Mosley and Douglas
1- Road Closed Ahead Sign at Douglas and Topeka
1- Road Closed Ahead Sign at approximately 50' South of 2nd Street on St Francis
50 – A Frames

I, ___Devin W Hansen_____, the above named applicant, do solemnly swear that I have read the contents of this application and that all information and answers herein contained are completed and true. In addition, I have read and understand all rules and regulations as set out in the Code of the City of Wichita. Furthermore, I hereby agree to comply with all of the laws of the State of Kansas, and all rules and regulations prescribed by the City of Wichita and I have consent to the immediate revocation of my license, by the proper officials, for any violation of such laws, rules, or regulations.

_Devin W Hansen_____ 7/22/2010
Signature of Event Promoter Date

__Wichita Wagonmasters Chili Cookoff____ 7/22/2010
Organization/Event Date

_____ 7-22-2010
City of Wichita Representative Date

Attached Below:

Certificate of Insurance
Site Map
Security Requirements
Traffic Flow Plan
Trash Receptacles
Portable Restrooms
Cereal Malt Beverage Licenses
Cereal Malt Beverage Consumption Regulations
Portable Amusement Ride License
Event Times
Noise Level

CITY OF WICHITA

_____ **1. Certificate of Insurance – Minimum 30 day approval process**
The event promoter shall be required to **maintain insurance reasonably acceptable to the City covering all aspects of the event** in a minimum amount of $500,000 public liability insurance and $50,000 property damage insurance, in addition to other insurance as required by law. The insurance policies must include the City of Wichita and its agencies as additional insured.

Here is a copy that has been forwarded to the City of Wichita from our insurance carrier.

CITY OF WICHITA

COMMUNITY EVENT CHECKLIST

Temporary Entertainment District

Checklist must accompany Application and applicable fees and mail to:

Division of Arts & Cultural Services | 225 W. Douglas | Wichita, KS 67202
(W) 316-303-8630 (F) 316-858-7960 csclark@wichita.gov

Completion of a Community Event Application is required when the following conditions apply: *The City of Wichita defines a Community Event as follows:*

- Outdoor event on public and/or private property
- Attendance in excess of 50 persons on public property and/or 250 on private or park property. Excludes invitation only events.
- Involves a particular purpose and time.

Approval of all applicable departments is required before permit is issued. Every event contact person shall be required to provide certified law enforcement officers, portable restrooms, and trash service in adequate number as reasonably determined by the procedures set forth. All vendors must be properly licensed and inspected. The event promoter shall also be required to obtain, place and remove signs and barricades to close streets in accordance with requirements of the City. Such services will be provided without cost to the City of Wichita or its agencies. Municipal Codes can be accessed from www.wichita.gov. Left side of Home Page, click on *"Arts & Culture"* then *"Community Events"*.

X **1. Certificate of Insurance - Must accompany application**
The event promoter shall be required to **maintain insurance reasonably acceptable to the City covering all aspects of the event** in a minimum amount of $500,000 public liability insurance and $50,000 property damage insurance, in addition to other insurance as required by law. The insurance policies must include the City of Wichita and its agencies as additional insured.

X **2. Site Map – Must accompany application**
A Site Map/Plan and Event Notice **must be attached to application.** The Site Map/Plan shall include: (1) streets requested for closure; (2) Entry and exit points of event venue; (3) Description of signage and barriers defining the area which alcoholic liquor or CMB may be consumed; (4) Point of sale of alcoholic beverages; (5) location of participating establishments; (6) stage placement; (7) portable restroom locations; (8) trash receptacle locations.

X **3. Security Requirements – Minimum 10 day approval process**
Security requirements shall be determined in coordination with the Wichita Police Department. The event promoter will be required to hire certified law enforcement officers in addition to any other security the promoter provides on the event site.

CITY OF WICHITA

X 4. **Traffic Flow Plan – Must accompany application**
The plan should include any information that will impact the flow of traffic, such as requested street closures; route for parade, run/walk; or any other request. Does not include events solely on sidewalks or public rights-of-way immediately adjacent to public streets unless alcoholic beverages are to be consumed in these areas. Applicants will be required to disclose the date, street name, location, and time period for approval of requested street closures. Please attach the traffic flow plan as part of the site map. Closure for any major street requires applicable signs and Type III barricades and certified law enforcement officers, to be provided by applicant. All affected property owners are required to be notified in writing for intended street closure.
Only temporary street markings are allowed and must be removed immediately upon completion of the event.

X 5. **Trash Receptacles – Minimum 10 day approval process**
The number of trash containers **shall be based upon industry standards for sanitation and public convenience** and will include consideration of the type of food and packaging. Requirements will be determined on event criteria and established with contracted vendor. Trash service will include servicing during an event for four hours or more and picking up of all trash and debris during and after the event. Upon completion of the event public property shall be left in the same condition or better than received. Trash containers may be located only in areas approved on site map.

X 6. **Portable Restrooms – Minimum 10 day approval process**
The number of portable restrooms **shall be based upon industry standards for sanitation and public convenience.** Requirements will be determined on event criteria and established with contracted vendor. The plan must provide for service during the event if planned for four hours or more. Portable restrooms may be located only in areas approved on site map.

N/A 7. **Food Vendors Transient Merchant License - Minimum 15 day approval process**
Food vendors must be licensed and inspected through the City of Wichita. **A list of vendors including contact person and contact information must be submitted with the Community Event Application.**

N/A 8. **Transient Merchant License– Minimum 15 day approval process**
Transient Merchants are described as vendors selling wares or food from 7:00 am until Midnight. Each vendor is required to fill out a separate application including signature. A copy of current Sales Tax License for the State of Kansas or proof of exempt status must accompany application. **A list of vendors including contact person and contact information must be submitted with the Community Event Application.**

CITY OF WICHITA

X **9. Cereal Malt Beverage and Alcoholic Liquor Licenses – Minimum 45 day approval process**
The event promoter shall be responsible for compliance with CMB and alcoholic liquor laws as well as all other laws and ordinances in the conduct of the event. Click on the *"Business"* tab at the top of the Home Page then click on "City of Wichita License Applications" to locate Drinking Establishment License application.

X **10. Cereal Malt Beverage and Alcoholic Liquor Consumption Regulations**
The event promoter and onsite supervisor (if different) shall be responsible for compliance with all regulations as set forth in Section 3.11.065 of the City Code. **Consumption of CMB or alcoholic liquor on public streets and sidewalks is only allowed when the street is closed to vehicular traffic.**

X **11. Portable Amusement Ride License– Minimum 15 day approval process**
Completed application must include name of approved vendor. A current copy of certificate of inspection for each ride and applicable insurance must be on file with the City of Wichita. Placement of rides must be noted on site plan.

N/A **12. Fireworks License– Minimum 30 day approval process**
Completed application must include a copy of the Firework Operator Certificate. Applicant is required to include a site plan of the shooting site, a list of shell sizes and applicable insurance.

X **13. Event Times**
Outdoor entertainment may operate 8:00 am until 11:00 pm Sunday through Thursday, 8:00 am until Midnight Friday and Saturday. *Municipal Code Section 3.11.155.* Amusement parks may operate until 11:00 pm Sunday through Thursday and until midnight on Friday and Saturday. *Municipal Code Section 3.20.030.* The event promoter shall at all times be responsible for compliance with laws and ordinances regulating the times of events.

X **14. Noise Level**
The event promoter shall be required to ensure that sound levels do not exceed that which is appropriate for the event area and its location and is in compliance with the provisions of *Chapter 7.41* of the code of the City of Wichita. The promoter will respond in a timely and effective manner to requests of the city's representatives concerning the sound level. The WPD or authorized representatives of the City shall have the authority to cancel musical performances or events for substantial or repeated violations.

CITY OF WICHITA

X **15. Miscellaneous**

No excavation shall be made on public property nor objects/promotional items be placed or attached to public property except as expressly approved by permit or license. The event promoter shall be required to abide by such other requirements as may be reasonable for the approval of the application.

I have read and understand the above information and regulations and accept them on behalf of the following organization.

Signature of Event Promoter

7/20/2010
Date

Wichita Wagonmasters Chili Cookoff
Organization/Event

City of Wichita Representative

7/22/2010
Date

CITY OF WICHITA

_____ **2. Site Map – Must accompany application**

A Site Map/Plan and Event Notice **must be attached to application.** The Site Map/Plan shall include: (1) streets requested for closure (2) Entry and Exit points of event venue; (3) Description of signage and barriers defining the area which alcoholic liquor or CMB may be consumed; (4) Point of sale of alcoholic beverages (5) location of participating establishments; (6) stage placement; (7) portable restroom locations; (8) trash receptacle locations.

_____ **3. Security Requirements – Minimum 10 day approval process**

Security requirements shall be determined in coordination with the Wichita Police Department. The event promoter will be required to hire certified law enforcement officers in addition to any other security the promoter provides on the event site.

Contact has been made with Lt. Donnie Phelps regarding this event. We will have six officers on site from 8:00am until 4:00pm. We have also made request with Sgt Ed Brower of the Mounted Patrol unit to be there.

CITY OF WICHITA

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/20/ .0

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Wichita Insurance LLC
255 N Water St
Wichita, KS 67202

CONTACT NAME: Ronald W. Goers
PHONE (AC, No, Ext): 316-265-4451 FAX (AC, No): 316-2[illegible]5-4917
E-MAIL ADDRESS: ronald@wichitains.kacoxmail.com
PRODUCER CUSTOMER ID #:

INSURED
Wichita Wagonmaster, Inc.
PO Box 1106
Wichita, KS 67201-1106

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: NAUTILUS INSURANCE COMPANY	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSRD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC	Y		NN031980	9/24/10	9/28/10	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,0[illegible]0,000 $ Exc[illegible]uded $ 5,000 $ Exc[illegible]uded $ 1,0[illegible]0,000 $ Exc[illegible]uded $
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DEDUCTIBLE RETENTION $						EACH OCCURRENCE AGGREGATE	$ $ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Event: Chili Festival

CERTIFICATE HOLDER

City of Wichita
City Hall, 7th Floor
455 N Main st
Wichita. LS 67202 FAX: 268-4663

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Ronald W Goers

© 1988-2009 ACORD CORPORATION. All rights reserved.

ACORD 25 (2009/09) The ACORD name and logo are registered marks of ACORD

clm

CITY OF WICHITA

____ **4. Traffic Flow Plan – Must accompany application**

The plan should include any information that will impact the flow of traffic, such as requested street closures; route for parade, run/walk; or any other request. Does not include events solely on sidewalks or public rights-of-way immediately adjacent to public streets unless alcoholic beverages are to be consumed in these areas. Applicants will be required to disclose the date, street name, location, and time period for approval of requested street closures. Please attach the traffic flow plan as part of the site map. Closure for any major street requires applicable signs and Type III barricades and certified law enforcement officers, to be provided by applicant. All affected property owners are required to be notified in writing or intended street closure.

Only temporary street markings are allowed and must be removed immediately upon completion of the event.

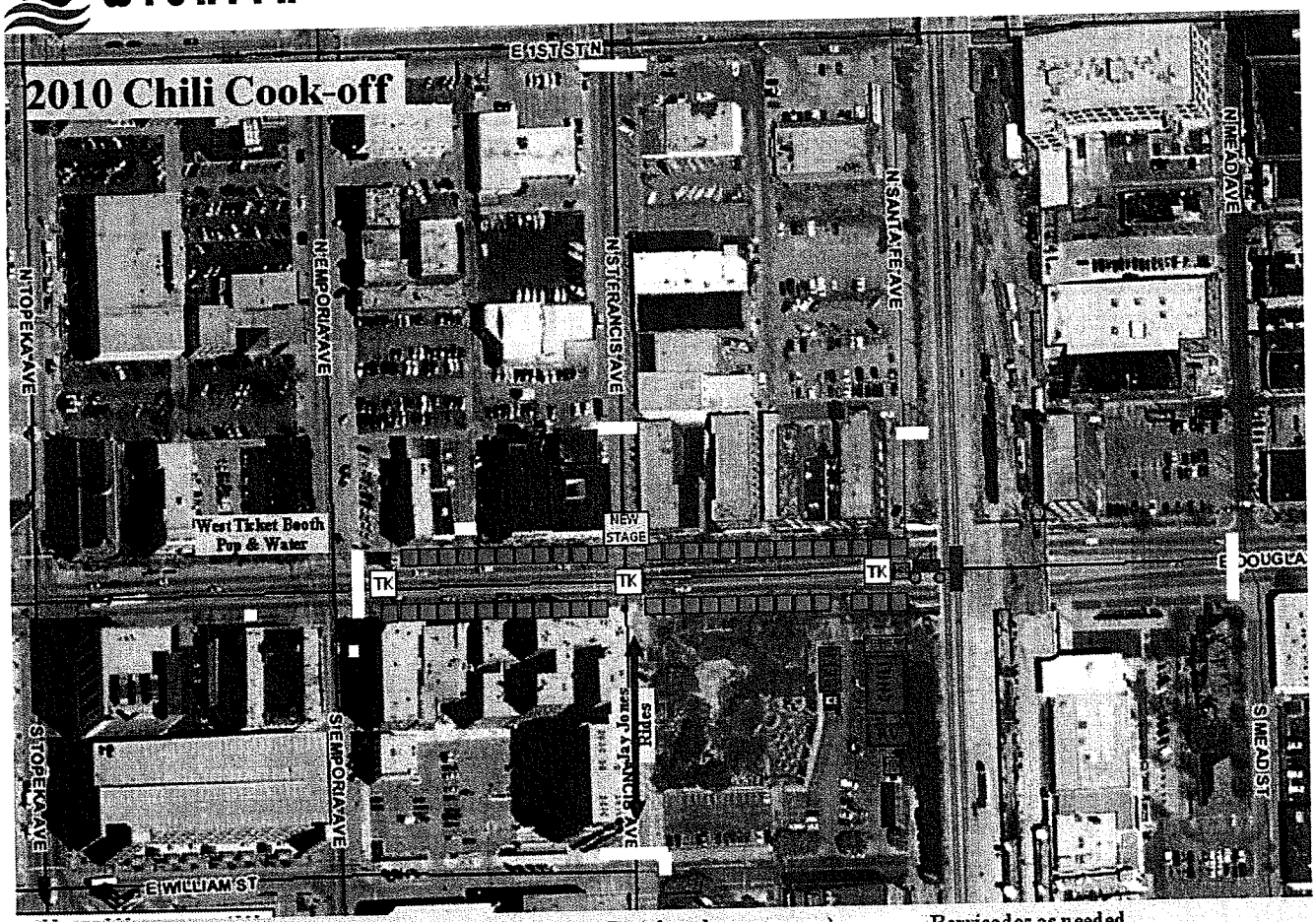
The 2010 Wichita Wagonmaster Chili Cookoff will follow the same traffic flow plan as the prior year (2009). We will be securing the following from Highway Technologies:

1- Type 3 with Road Closed Sign for Douglas and Mead
1- Type 3 with Road Closed – Local Traffic Only at 1st and St Francis
2- Type 3 with Road Closed Signs at Douglas and St Francis
1 – Type 3 with Road Closed Sign at Douglas and Emporia
1 – Type 3 with Road Closed – Local Traffic Only at Douglas and Washington
1- Road Closed Ahead Sign at Mosley and Douglas
1- Road Closed Ahead Sign at Douglas and Topeka
1- Road Closed Ahead Sign at approximately 50' South of 2nd Street on St Francis
50 – A Frames

Per Our site maps we are attaching the following layouts for traffic flow:

7/22/2010

CITY OF WICHITA



- Chili Team 20x20 (50 Teams on Douglas, extend east on Douglas when necessary)
- Stage Facing south on St Francis north side of Douglas (New Park Board stage)
- Porta Jons (10:1 ratio regular to handicap) need to be 50' from food

Barricades as needed

- WM Chili and Beer Garden Location

Rev. 7-12-10

CITY OF WICHITA

Not Included on attached maps are the following :

Washington and Douglas Intersection : Road Closed Local Traffic Only placed on the west side of Washington next to curb

Mosley and Douglas Intersetion: Road Closed Ahead Sign placed on the west side of Mosley and the north side of Douglas street in the curb area

Topeka and Douglas Intersection: Road Closed Ahead sign placed on the east side of Topeka and the south side of Douglas in the curb area

North St Francis Street Road Closed Ahead sign approximately 50 feet south of 2nd street on west side of street

____**5. Trash Receptacles – Minimum 10 day approval process**
The number of trash containers **shall be based upon industry standards for sanitation and public convenience** and will include consideration of the type of food and packaging. Requirements will be determined on event criteria and established with contracted vendor. Trash service will include servicing during an event for four hours or more and picking up of all trash and debris during and after the event. Upon completion of the event public property shall be left in the same condition or better than received. Trash containers may be located only in areas approved on site map.

Lies Trash Service__Phone__522-1699____Date dumpster will be placed___6:30am day of event___ Date for removal___4:00pm same day__100__Trash receptacles will be placed throughout the event area.

_____ **6. Portable Restrooms – Minimum 10 day approval process**
The number of portable restrooms **shall be based upon industry standards for sanitation and public convenience.** Requirements will be determined on event criteria and established with contracted vendor. The plan must provide for service during the event if planned for four hours or more. Portable restrooms may be located only in areas approved on site map.

Provider: ___AAA Port A John_____Phone__522-6442_____Date restrooms will be placed___6:30am day of event___Date to be removed___4:00pm same day___ We will have 2 Hand Washing Stations, 10 Port A Johns, and 1 Handicapped Port A John. The Port A John's are shown on the attached site map

CITY OF WICHITA

N/A **7. Food Vendors – Minimum 15 day approval process**
Food vendors must be licensed and inspected through Environmental Services. **A list of vendors including contact person and contact information must be submitted with the Community Event Application.**

We will not have any food vendors selling to the public.

N/A **8. Transient Merchant License– Minimum 15 day approval process**
Transient Merchants are described as vendors selling wares or food from 7:00 am until Midnight. Each vendor is required to fill out an application including signature and a copy of current Sales Tax License for the State of Kansas or proof of exempt status must accompany application. **A list of vendors including contact person and contact information must be submitted with the Community Event Application.**

We will not have any vendors selling wares or food to the public at the event.

_____ **9. Cereal Malt Beverage and Alcoholic Liquor Licenses – Minimum 45 day approval process**
The event promoter shall be responsible for compliance with CMB and alcoholic liquor laws as well as all other laws and ordinances in the conduct of the event. Click on the *"Business"* tab at the top of the Home Page then click on "City of Wichita License Applications" to locate Drinking Establishment License application.

Here is a copy of the application submitted:

CITY OF WICHITA

_____**10. Cereal Malt Beverage and Alcoholic Liquor Consumption Regulations**

The event promoter and onsite supervisor (if different) shall be responsible for compliance with all regulations as set fourth in Section 3.11.065 of the City Code. **Consumption of CMB or alcoholic liquor on public streets and sidewalks is only allowed when the street is closed to vehicular traffic.**

We acknowledge this section and understand our responsibilities. We plan to have a table where id's will be checked and issue wrist bands to those who are of age to consume CMB.

_____ **11. Portable Amusement Ride License– Minimum 15 day approval process**

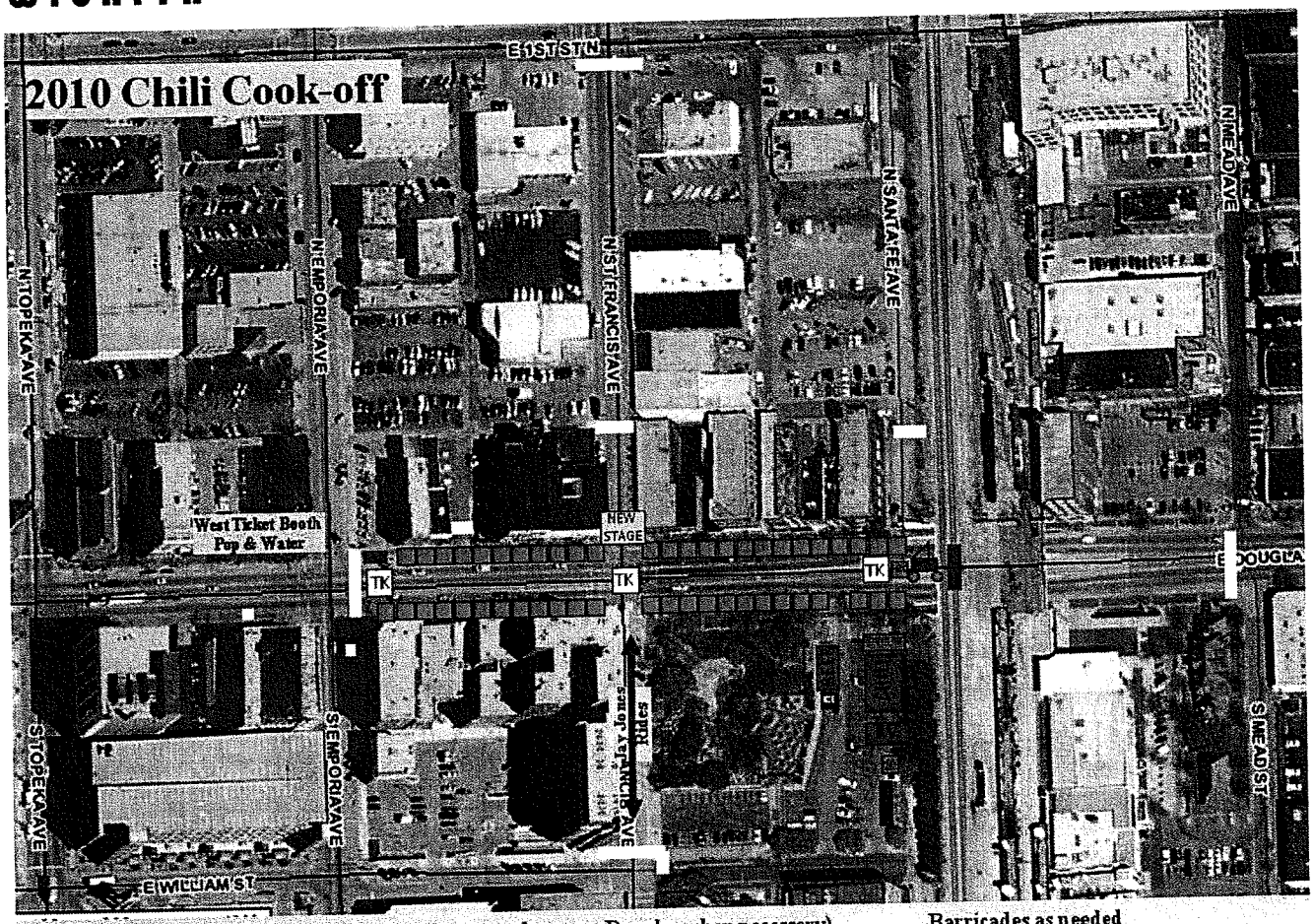
Completed application must include name of approved vendor. A current copy of certificate of inspection for each ride and applicable insurance must be on file with the City of Wichita. Placement of rides must be noted on site plan.

Portable or inflatable amusement rides will be at the event. An application has been prepared and submitted. Placement of the rides are on the site map.

A copy of the Amusement Company's insurance is also attached below the site map.

7/22/2010

CITY OF WICHITA



Chili Team 20x20 (50 Teams on Douglas, extend east on Douglas when necessary)
Stage Facing south on St Francis north side of Douglas (New Park Board stage)
Porta Jons (10:1 ratio regular to handicap) need to be 50' from food

Barricades as needed
WM Chili and Beer Garden Location

Rev: 7-12-10

CITY OF WICHITA

✓ **12. Fireworks License– Minimum 30 day approval process**
Completed application must include a copy of the Firework Operator Certificate. Applicant is required to include a site plan of the shooting site, a list of shell sizes and applicable insurance.

No fireworks will be at the event.

✓ **13. Event Times**
Outdoor entertainment may operate 8:00am until 11:00pm Sunday through Thursday, 8:00am until Midnight Friday and Saturday. *Municipal Code Section* 3.11.155. Amusement parks may operate until 11:00pm Sunday through Thursday and until midnight on Friday and Saturday. *Municipal Code Section* 3.20.030. The event promoter shall at all times be responsible for compliance with laws and ordinances regulating the times of events.

The Chili Cookoff will take place between the allowed times. Our entertainment will begin at approximately 10:30am and end around 2:00pm.

✓ **14. Noise Level**
The event promoter shall be required to ensure that sound levels do not exceed that which is appropriate for the event area and its location and is in compliance with the provisions of Chapter *7.41* of the code of the City of Wichita.. The promoter will respond in a timely and effective manner to requests of the city's representatives concerning the sound level. The WPD or authorized representatives of the City shall have the authority to cancel musical performances or events for substantial or repeated violations.

The event will adhere to the noise level ordinance.

✓ **~~14~~ 15. Miscellaneous**
No excavation shall be made on public property nor objects/promotional items be placed or attached to public property except as expressly approved by permit or license. The event promoter shall be required to abide by such other requirements as may be reasonable for the approval of the application.

The event will adhere to the miscellaneous requirement.

7/22/2010

CITY OF WICHITA

Jul 21 10 09:45a Big Sky 316-685-8600 p.1

ACORD

CERTIFICATE OF LIABILITY INSURANCE

OP ID CK BIGSK-2

DATE (MM/DD/YYYY) 04/27/10

PRODUCER

M & M Insurance Associates
1700 E. Douglas
Wichita KS 67214
Phone: 316-264-9317 Fax: 316-267-8358

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Berkley Regional Specialty	31295
INSURER B: Travelers	
INSURER C:	
INSURER D:	
INSURER E:	

INSURED

Big Sky Party Rentals, LLC
and Calendar Club
4929 E 13th St
Wichita KS 67208

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A		GENERAL LIABILITY	BPK0016765-22	05/07/10	05/07/11	EACH OCCURRENCE	$ 1,000,000
		X COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
		CLAIMS MADE X OCCUR				MED EXP (Any one person)	$ Excluded
						PERSONAL & ADV INJURY	$ 1,000,000
						GENERAL AGGREGATE	$ 2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC				PRODUCTS - COMP/OP AGG	$ 2,000,000
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	$
		ANY AUTO				BODILY INJURY (Per person)	$
		ALL OWNED AUTOS				BODILY INJURY (Per accident)	$
		SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	$
		HIRED AUTOS					
		NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS / UMBRELLA LIABILITY				EACH OCCURRENCE	$
		OCCUR CLAIMS MADE				AGGREGATE	$
		DEDUCTIBLE					$
		RETENTION $					$
							$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	6KUB9942M22509	09/21/09	09/21/10	X WC STATU-TORY LIMITS / OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N				E.L. EACH ACCIDENT	$ 100,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$ 100,000
						E.L. DISEASE - POLICY LIMIT	$ 500,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITY-W1

City of Wichita
Department of Finance
City Clerk's Office
455 N. Main - 12th Floor
Wichita KS 67202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

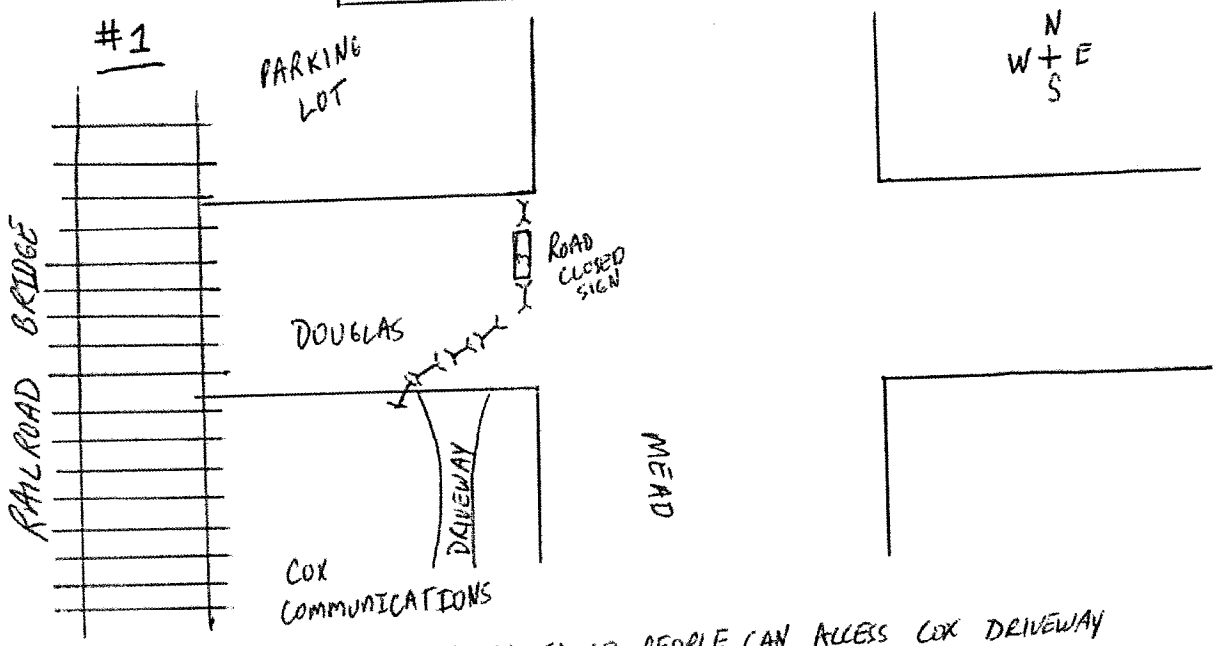
© 1988-2009 ACORD CORPORATION. All rights reserved.

ACORD 25 (2009/01)

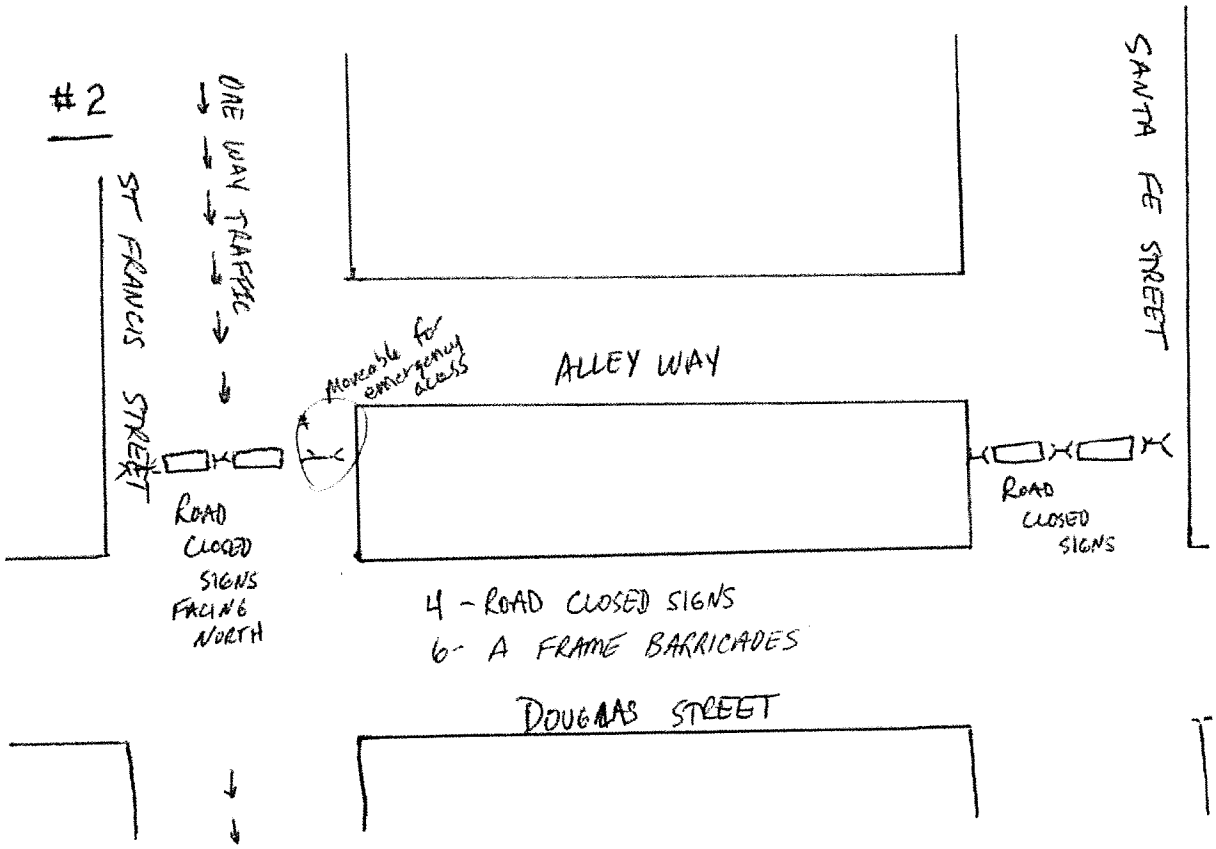
The ACORD name and logo are registered marks of ACORD

CITY OF WICHITA

2007 TRAFFIC FLOW PLAN
CHILI COOK OFF



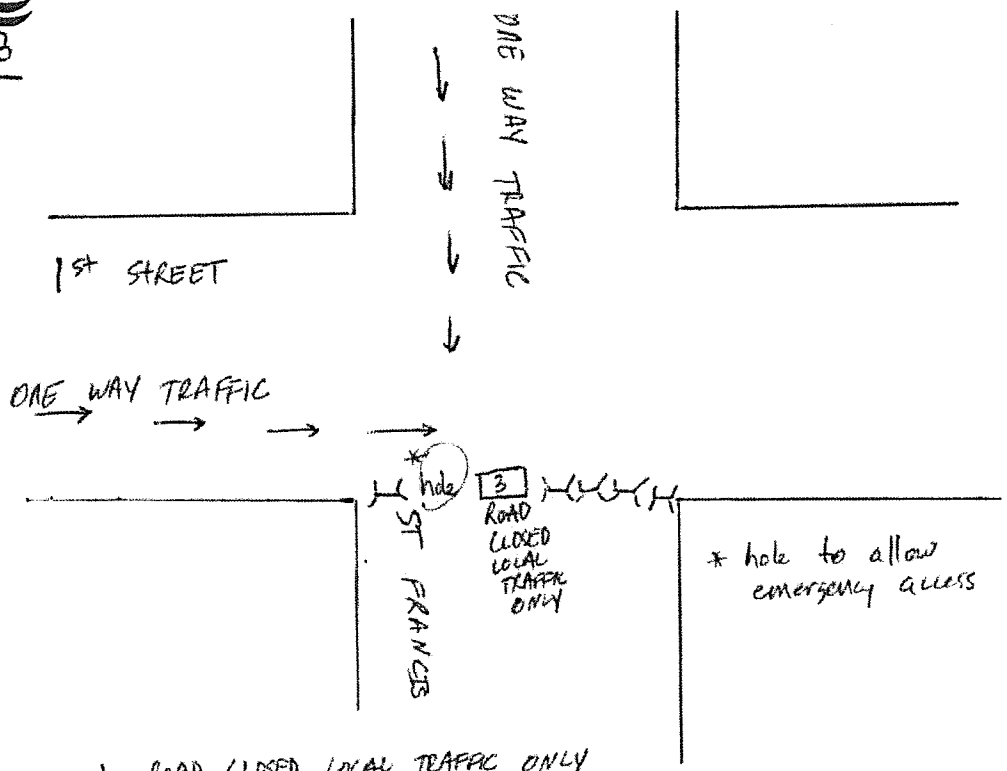
CURVE A FRAMES SO PEOPLE CAN ACCESS COX DRIVEWAY
ONE TYPE 3 ROAD CLOSED SIGN – 8 A FRAMES



4 – ROAD CLOSED SIGNS
6 – A FRAME BARRICADES

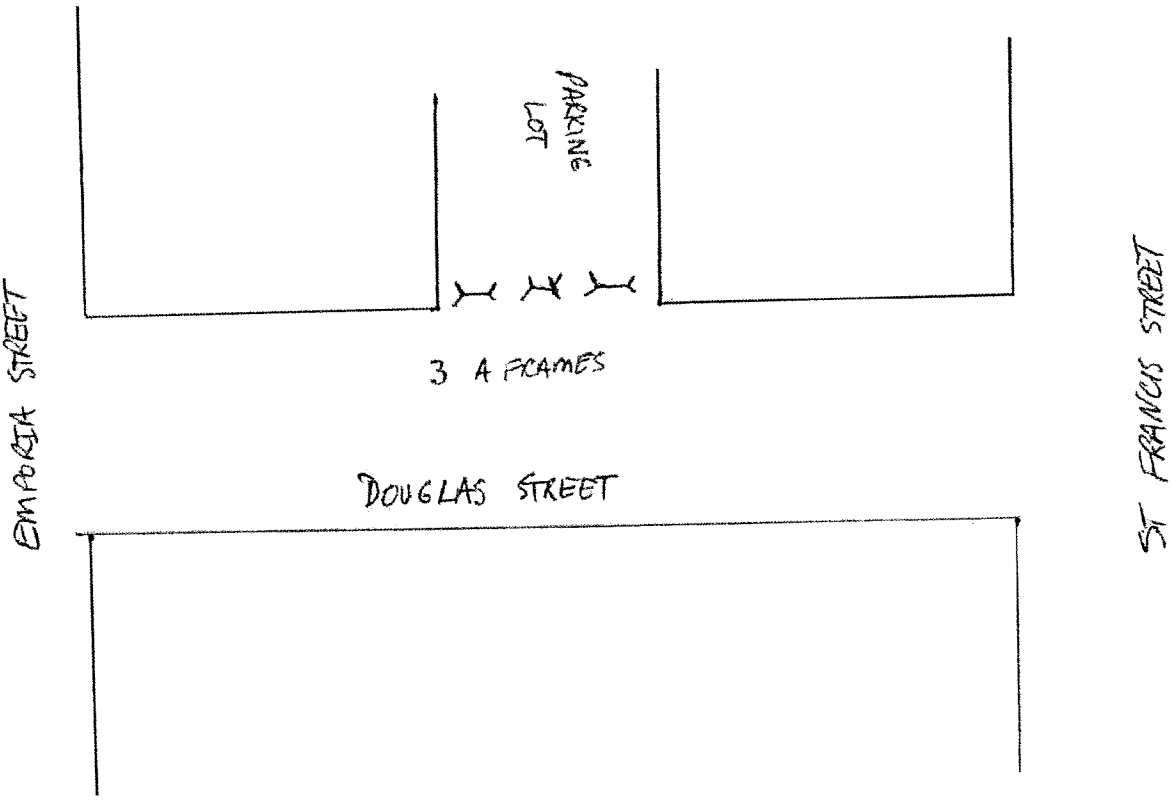
CITY OF WICHITA

#3

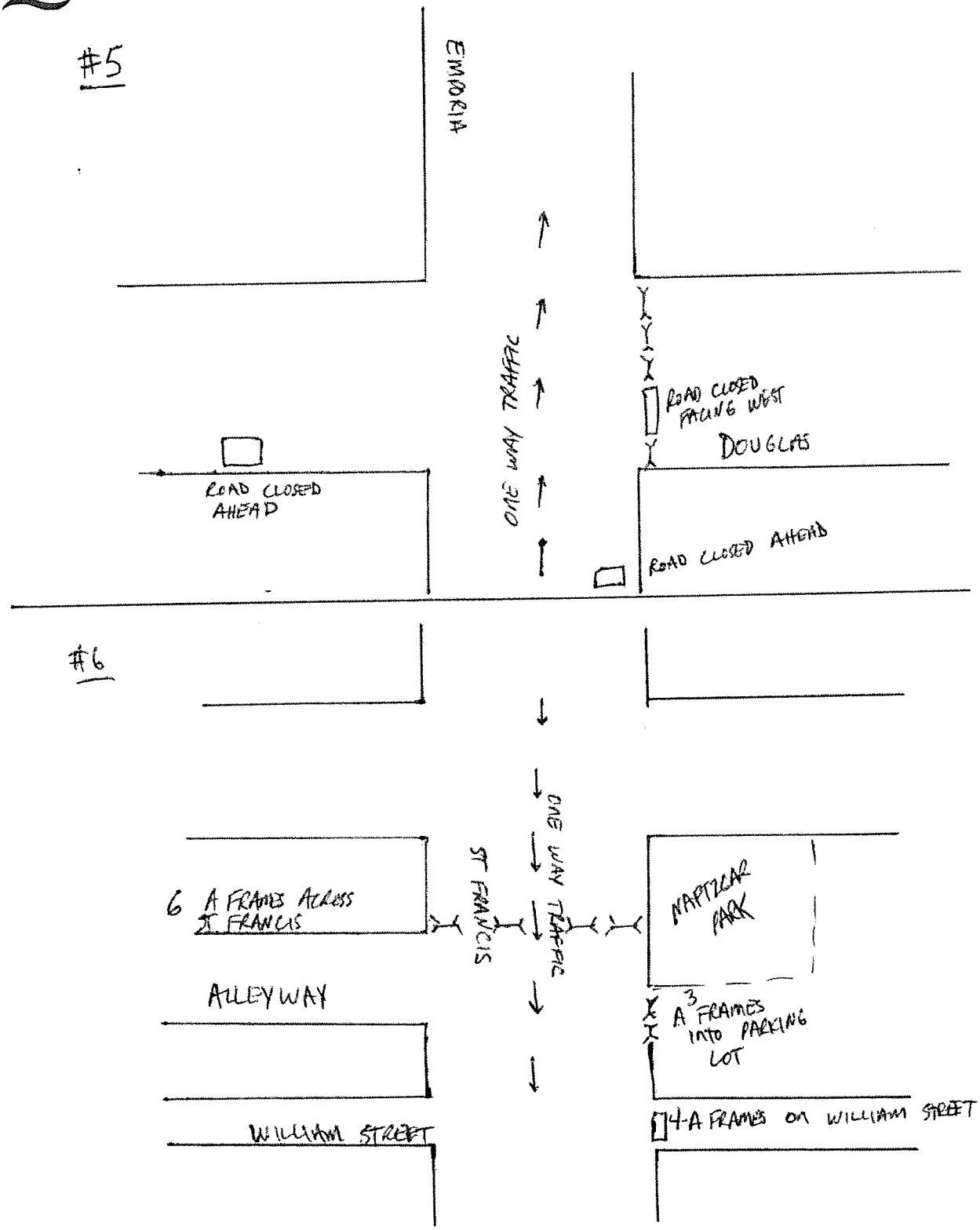


1 - ROAD CLOSED LOCAL TRAFFIC ONLY
6 - A FRAMES

#4



CITY OF WICHITA



City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: Agreement for Operating Funds for Section5316 Public Transportation Projects (Districts I and V)

Initiated By: Wichita Transit

Agenda: Consent

Recommendation: Approve the Agreement.

Background: The Federal Transit Administration (FTA) grant application process, administered by KDOT, requires a signature by the governing body authorizing staff to access the grant to receive funds and administer the grant's program. The purpose of this agreement is to authorize staff to file for eligible federal funds for the support of the City of Wichita's Access to Jobs transit services for July, 2010, through June, 2011. Transit staff held a public hearing on January 16, 2010, with no adverse comments.

Analysis: The proposed agreement authorizes funding to support expanded service on the South Main, East Harry, East 17th, and West Maple routes so they can continue to have 30-minute service from 6:00 a.m. to 6:30 p.m. Monday through Friday and from 7:00 a.m. to 5:30 p.m. Saturday.

Financial Consideration: The total grant budget is $373,908. The federal share is $186,954 (50%), and the local match is $186,954 (50%), which will be provided by KDOT. No City of Wichita money will be used.

Goal Impact: To Ensure an Efficient Infrastructure by maintaining and optimizing public facilities and assets.

Legal Consideration: The Law Department has reviewed and approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the agreement for Operating Funds for Section 5316 Public Transportation Projects between the Kansas Department of Transportation (KDOT) and Wichita Transit and authorize the necessary signatures.

Attachment: Agreement for Operating Funds for §5316 Public Transportation Projects.

City of Wichita
City Council Meeting
September 14, 2010

To: Mayor and City Council

Subject: Agreement for Operating Funds for §5316 Public Transportation Projects (Districts I through V)

Initiated By: Wichita Transit

Agenda: Consent

Recommendation: Approve the agreement.

Background: The Federal Transit Administration (FTA) grant application process, administered by Kansas Department of Transportation (KDOT), requires a signature by the governing body authorizing staff to access the grant to receive funds and administer the grant's program. The purpose of this agreement is to authorize staff to file for eligible federal funds for the support of the City of Wichita's Access to Jobs transit services for July, 2010, through June, 2011. Transit staff held a public hearing on January 16, 2010, with no adverse comments.

Analysis: The proposed agreement authorizes funding to support expanded service on the South Main, East Harry, East 17th, and West Maple routes so they can continue to have 30-minute service from 6:00 a.m. to 6:30 p.m. Monday through Friday and from 7:00 a.m. to 5:30 p.m. Saturday.

Financial Consideration: The total grant budget is $373,908. The federal share is $186,954 (50%), and the local match is $186,954 (50%), which will be provided by KDOT. No City of Wichita money will be used.

Goal Impact: To Ensure an Efficient Infrastructure by maintaining and optimizing public facilities and assets.

Legal Consideration: The Law Department has reviewed and approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the Agreement for Operating Funds for §5316 Public Transportation Projects between KDOT and Wichita Transit and authorize the necessary signatures.

Attachment: Agreement for Operating Funds for §5316 Public Transportation Projects.

CITY OF WICHITA
City Council Meeting
August 24, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of a Temporary and Drainage Easements at 11432 West Kellogg for the 119th Street West from Kellogg to Maple Improvement Project (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On August 4, 2009, the City Council approved funding to acquire right-of-way for a project to improve 119th Street West from Kellogg to Maple. The improvements will consist of widening the two lane road to five lanes. There will be four lanes of traffic and a center two-way turn lane. Landscaping will also be installed within available right of way. Ditches will be replaced with a storm water sewer system and sidewalks will be built along both the east and west side of 119th. To facilitate the project, a drainage easement along 119th Street and two temporary easements are required from the parcel at 11432 West Kellogg. The property is also known as Resthaven Cemetery.

Analysis: The proposed drainage easement consists of 10,454 square feet. This easement area is a twenty foot wide strip of land adjacent to the existing right-of-way within the most northern 530 feet of the subject property. The two temporary construction easements will be at two access drives along 119th. These temporary easements will provide adequate grading from the subject property to the road improvements. These temporary easements consist of a combined 1,640 square feet. The owner agreed to accept the appraised amount of $2,140. This is comprised of $2,090 for the drainage easement, or $0.20 per square foot and $50, or $0.03 per square foot for the temporary easements.

Financial Considerations: The funding source is General Obligations Bonds and monies administrated by the Kansas Department of Transportation. A budget of $2,940 is requested. This includes $2,140 for the easement and $800 for closing costs and related charges.

Goal Impact: The acquisition of this easement is necessary to ensure Efficient Infrastructure by improving an arterial street through a developed part of the City.

Legal Considerations: The Law Department has approved the drainage and temporary construction easements as to form.

Recommendation/Action: It is recommended that the City Council; 1) Accept the Easements and 2) Approve the Budget.

Attachments: Aerial map and easements with tract map.

PERMANENT DRAINAGE EASEMENT

THIS EASEMENT made this 5th day of August, 2010, by and between SCI Kansas Funeral Services, Inc., Grantor, and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of Two Thousand Ninety and no/100 Dollars ($2,090.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the Grantee a perpetual right-of-way and easement for public purposes including constructing, maintaining, and repairing roads, road right-of-way appurtenances and utilities over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

Tract D-61683
Permanent Drainage Easement
SCI Kansas Funeral Services, Inc.

Beginning at the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence East along the North line of said Lot 1 a distance of 20 feet; thence South, parallel with the West line of said Lot 1, a distance of 530 feet; thence West, parallel with said North line of said Lot 1, a distance of 20 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 530 feet to the point of beginning, containing 0.24 acres more or less.

Within the terms, conditions and limits of the Kansas Tort Claim Act as provided in K.S.A. 75-6101 et seq., as amended Grantee hereby releases and agrees to indemnify and discharge, absolutely, unconditionally and forever, Grantor, its affiliates, subsidiaries, parents, owners, and their respective officers, directors, shareholders, employees, representatives, successors, subsidiaries, assigns and agents from any and all liabilities, obligations, losses, costs, damages or expenses of any nature whatsoever relating to, arising out of, or in any way connected or associated with, Grantee's negligent actions or inactions in any way relating to the above-referenced real estate.

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such public improvements.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

Michael L. Decell, Vice President

STATE OF TEXAS)
) ss:
HARRIS COUNTY)

This instrument was acknowledged before me on the 17th day of August, 2010 by Michael L. Decell, Vice President, SCI Kansas Funeral Services, Inc.

LESLIE ROBLES
Notary Public, State of Texas
My Commission Expires
January 13, 2011

(signature) Leslie Robles

(print name) Leslie Robles, Notary Public

My Commission Expires: Jan. 13, 2011

City of Wichita
By Direction of the City Council

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

TRACT MAP D-61683

PERMANENT DRAINAGE EASEMENT, TEMPORARY CONSTRUCTION EASEMENT

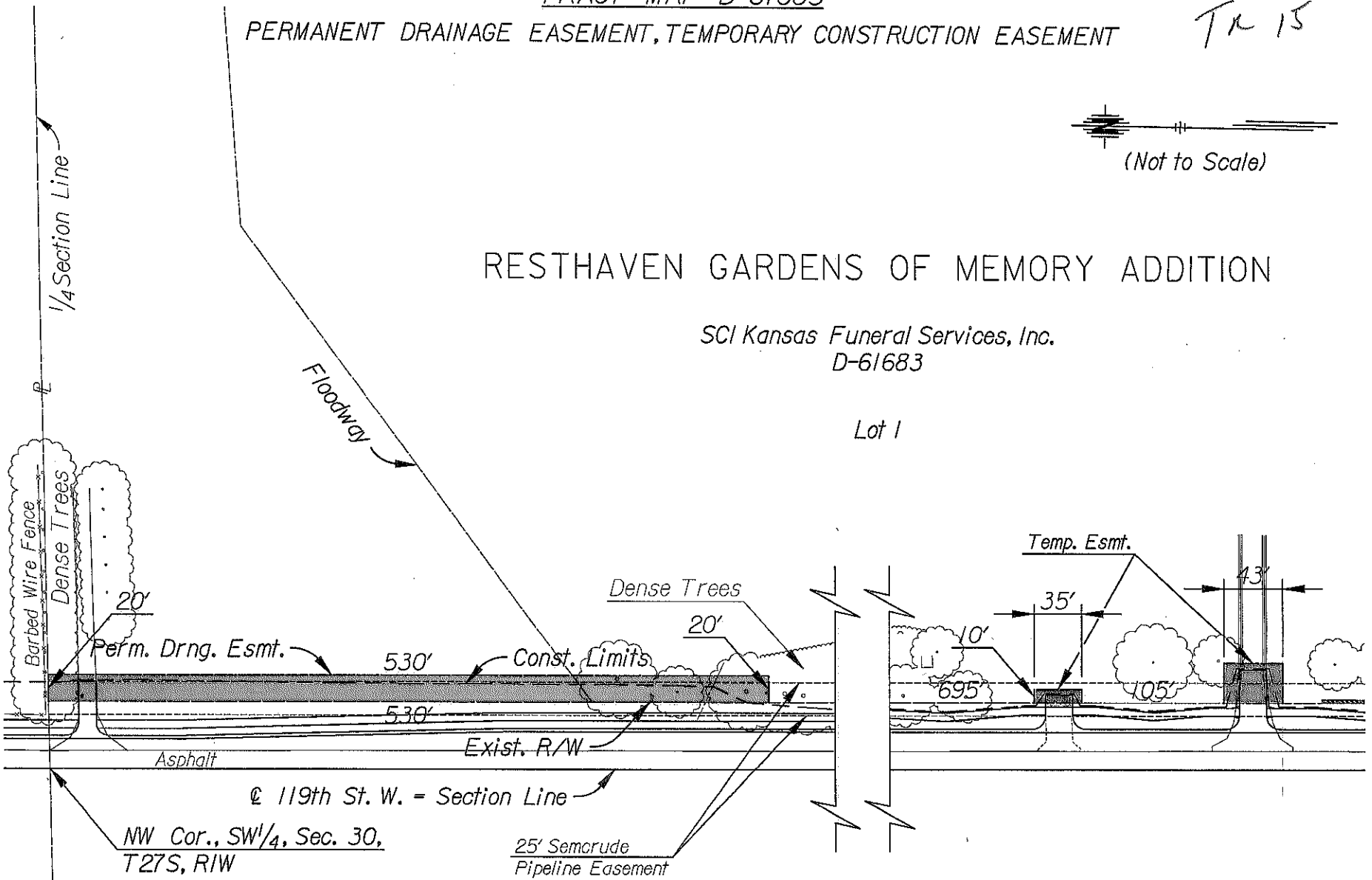
Tr 15

(Not to Scale)

RESTHAVEN GARDENS OF MEMORY ADDITION

SCI Kansas Funeral Services, Inc.
D-61683

Lot 1



LEGEND

- Permanent Drainage Easement
- Temporary Construction Easement

Contractor will remove trees as needed for construction.

March 11, 2010

707

Tr 15

Tract D-61683
SCI Kansas Funeral Services, Inc.
Permanent Drainage Easement

Beginning at the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence East along the North line of said Lot 1 a distance of 20 feet; thence South, parallel with the West line of said Lot 1, a distance of 530 feet; thence West, parallel with said North line of said Lot 1, a distance of 20 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 530 feet to the point of beginning, containing 0.24 acres more or less.

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT made this 5th day of August, 2010, by and between SCI Kansas Funeral Services, Inc., Grantor and the City of Wichita, Kansas, a municipal corporation, Grantee.

WITNESSETH: That the said Grantor, in consideration of the sum of Fifty and no/100 Dollars ($50.00) and other good and valuable consideration, the receipt whereof is here by acknowledged, do hereby grant and convey unto the Grantee a temporary right-of-way for the purpose of constructing, maintaining, and repairing road right-of-way, over, along and under the following described real estate situated in Wichita, Sedgwick County, Kansas, to wit:

Tract D-61683
SCI Kansas Funeral Services, Inc.
Temporary Construction Easement

Commencing from the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence South along the West line of said Lot 1 a distance of 1,225 feet to the point of beginning; thence East, perpendicular to said West line of said Lot 1, a distance of 10 feet; thence South, parallel with said West line of said Lot 1, a distance of 35 feet; thence West, perpendicular to said West line of said Lot 1, a distance of 10 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 35 feet to the point of beginning, containing 350.00 square feet more or less.

TOGETHER WITH:

Commencing from the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence South along the West line of said Lot 1 a distance of 1,365 feet to the point of beginning; thence East, perpendicular to said West line of said Lot 1, a distance of 30 feet; thence South, parallel with said West line of said Lot 1, a distance of 43 feet; thence West, perpendicular to said West line of said Lot 1, a distance of 30 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 43 feet to the point of beginning, containing 1,290.00 square feet more or less.

Within the terms, conditions and limits of the Kansas Tort Claim Act as provided in K.S.A. 75-6101 et seq., as amended Grantee hereby releases and agrees to indemnify and discharge, absolutely, unconditionally and forever, Grantor, its affiliates, subsidiaries, parents, owners, and their respective officers, directors, shareholders, employees, representatives, successors, subsidiaries, assigns and agents from any and all liabilities, obligations, losses, costs, damages or expenses of any nature whatsoever relating to, arising out of, or in any way connected or associated with, Grantee's negligent actions or inactions in any way relating to the above-referenced real estate.

And said Grantee, successors and assigns, is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such roadway and utility improvements beginning the date this easement is executed. This temporary easement shall expire automatically at the end of construction or at three years from execution of said document, whichever comes first.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

Landowners:

Michael L. Decell, Vice President

STATE OF TEXAS)
) **ss:**
HARRIS COUNTY)

This instrument was acknowledged before me on the 17th day of August, 2010 by Michael L. Decell of Harris County Texas

(signature) Leslie Robles

(print name) Leslie Robles, Notary Public

My Commission Expires: Jan. 13, 2011

(SEAL)

LESLIE ROBLES
Notary Public, State of Texas
My Commission Expires
January 13, 2011

City of Wichita
By Direction of the City Council

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

Tr 15

Tract D-61683
SCI Kansas Funeral Services, Inc.
Temporary Construction Easement

Commencing from the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence South along the West line of said Lot 1 a distance of 1,225 feet to the point of beginning; thence East, perpendicular to said West line of said Lot 1, a distance of 10 feet; thence South, parallel with said West line of said Lot 1, a distance of 35 feet; thence West, perpendicular to said West line of said Lot 1, a distance of 10 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 35 feet to the point of beginning, containing 350.00 square feet more or less.

TOGETHER WITH;

Commencing from the Northwest Corner of Lot 1, Resthaven Gardens of Memory, an Addition to Wichita, Sedgwick County, Kansas; thence South along the West line of said Lot 1 a distance of 1,365 feet to the point of beginning; thence East, perpendicular to said West line of said Lot 1, a distance of 30 feet; thence South, parallel with said West line of said Lot 1, a distance of 43 feet; thence West, perpendicular to said West line of said Lot 1, a distance of 30 feet to a point on said West line of said Lot 1; thence North along said West line of said Lot 1 a distance of 43 feet to the point of beginning, containing 1,290.00 square feet more or less.

Northeast Corner 119th Street and Kellogg

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
September 14, 2010

TO: Mayor and City Council

SUBJECT: Contract for Indigent Defense Services

INITIATED BY: Municipal Court

AGENDA: Consent

Recommendation: Approve Cotton & Pittman Law Office as the indigent defense services provider.

Background: The City is required to provide legal defense services to indigent persons accused of a jailable offense when they cannot afford to hire a private attorney. Pursuant to Section 1.04.210 of the City Code, the Municipal Court contracts with attorneys to provide indigent defense services. In 2009, the services of appointed legal counsel were provided in approximately 8,600 cases for approximately 6,900 defendants.

Analysis: Recently, the Court requested proposals from the legal community to represent indigent defendants. Four responses to the proposal were received. In accordance with Administrative Regulation 1.2, a staff screening and selection committee was formed to evaluate the responses and to select a vendor to provide the indigent defense services. The screening committee selected Cotton & Pittman Law Office to provide these services.

Cotton & Pittman attorneys have a combined 60 years of criminal law experience and nearly 40 years of public defender experience. The proposal submitted by Cotton & Pittman meets the requirements of the request for proposals and demonstrates a thorough understanding of project objectives. Cotton & Pittman will assign a minimum of four defense attorneys to provide coverage for all Municipal Court dockets. Additionally, Cotton & Pittman will provide office hours for indigent defendants at an office located outside City Hall. Indigent defense attorneys will be available in person and by telephone to answer questions and discuss their clients' cases prior to court hearing dates.

Financial Considerations: Cotton & Pittman will receive $317,000 during the first year of this contract. During each contract option year, Cotton & Pittman may receive an annual increase capped at 2%. The 2010 adopted budget for this contract is $317,000. To help offset the costs of providing public defender services, a four dollar public defender fee is included in court costs for each case convicted in Municipal Court. By year-end 2010, it is expected this fee will generate $267,000. Additional collections are generated through an indigent defendant co-pay fee. Co-pay fees are expected to generate $150,000 in 2010. Municipal Court projects a total of $417,000 collected through public defender co-pay's and court costs in 2010.

Goal Impact: Promote a Safe and Secure community through the adjudication of Municipal Court cases.

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

Recommendation/Action: It is recommended the City Council approve the vendor Cotton & Pittman Law Office as the indigent defense service provider, and authorize the necessary signatures.

Attachments: Indigent Defense Services Contract 2010
Request for Proposal for Indigent Defense Services
Request for Proposal for Indigent Defense Service Addendum #1

Contract for Legal Services
City of Wichita Public Defenders Program

This Agreement entered into this 14th day of September, 2010, by and between the **City of Wichita, Kansas,** a municipal corporation, hereinafter called **"CITY"**, and **Cotton & Pittman Law Office,** hereinafter referred to as **"Contractor"**, for the purpose of providing legal services to qualified indigent defendants appearing before the Municipal Court of Wichita, Kansas.

1. Definitions:

When used herein the following definitions shall apply.

a. Court shall mean the Municipal Court of the City of Wichita, consisting of the Judges of the five divisions.
b. Attorney shall mean the attorney acting as appointed counsel for indigent defendants and referred to as the City Public Defender.
c. Defendant shall mean the person qualified as indigent under designated guidelines and who is entitled to receive the services of a court appointed attorney in the Wichita Municipal Court.

2. Scope of Services:

Contractor shall provide professional legal services to defendants meeting designated guidelines for indigency in the Court. Services provided shall include representing indigent defendants at all Court appearances scheduled Monday through Friday, consultation advice, trial of cases before the Court, filing of Notice of Appeal, preparation of documents and briefs as required by the Court and any other legal services commonly associated with defense of a criminal or traffic case.

Representation of defendants will be on an assigned basis, commencing upon notification and continuing until final disposition of the case, including sentencing and filing of Notice of Appeal or until released by the Court. Contractor will not be responsible for representation on appeal to District Court.

All representation of defendants will be in accordance with the highest ethical standards, independent of the Court or prosecution. Contractor shall receive, investigate and report the results of any investigation of complaints concerning associate attorneys and/or subcontractors to the Administrative Judge. Contractor shall

take appropriate steps to correct any deficiencies in the performance of the associate attorneys and/or subcontractors.

Contractor will provide all services outlined in their response to the City's Request for Proposal No. FP – 030047 and Addendum #1 attached hereto and incorporated herein by reference, including but not limited to:

a. Coverage of all dockets five (5) days each week.
b. Contractor will maintain an office for all nonprisoner client interviews.
c. Separate phone line, phone number and/or voice mail/ answering machine for clients to facilitate and insure client contact. All messages will be returned within one (1) business day or as soon as practical.
d. Contractor will provide secretarial/receptionist support at their office during scheduled times for client interviews.
e. Contractor will provide an information sheet to qualified defendants at no cost to the City. The City's Administrative Judge will retain final editing rights on the information sheet.
f. Contractor will maintain a record of all cases assigned and time expended on each docket for review by the Municipal Court or the Internal Auditor at reasonable times and with reasonable notice, and to assist in an evaluation of the City's indigent defense program. Records should be maintained to provide summary statistical reports on the number of cases completed and in progress, hours per case, and dispositions of completed cases.
g. Contractor will respond to all correspondence received from the indigent client.

3. <u>Compensation:</u>

Contractor shall receive a fee of $317,000 per year payable in monthly installments of $26,416.67 each month. The fee for the first month will be payable following contract signing.

Beginning October 2011, and continuing throughout the duration of this contract, the City agrees to annually increase the fee paid the Contractor by an amount equal to the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the 12 month period preceding the May CPI-W release. Fee increases will be effective with the first October payment of each year. The increase percentage shall be capped at 2% annually.

The Contractor shall be an independent contractor and not an employee of the City of Wichita.

The Wichita Police Department Records Division and/or Municipal Court Clerk will provide police reports and case files as needed at no cost to the Contractor.

4. Performance Measures:

This contract will include agreed upon performance measures. These performance measures will be utilized to evaluate the vendor's effectiveness and efficiency in performing the services outlined in the contract.

5. Penalty for Non-Performance:

A dollar value penalty in the amount of $100 will be deducted from the monthly payment for each assigned court docket where an indigent defense attorney does not appear.

6. Contract Duration:

This contract will be effective October 1, 2010, and will be valid through September 30, 2011, with an option to renew the contract under the same terms and conditions for an additional four (4), one (1) year periods by mutual agreement of both parties.

7. Termination:

This contract may be terminated by the City upon thirty (30) days written notice.

8. Outside Practice of Law:

This agreement shall in no way limit Contractor's right to practice law in this City nor in any way limit the representation of other clients before the Court, except in cases involving conflict of interest.

9. Subcontracting:

Services provided by Contractor for this contract may not be assigned without prior approval by the City Manager in writing. Subcontracting by Contractor for Attorneys may be done with the approval of the Municipal Court Administrative Judge.

10. Insurance and Indemnification:

Contractor and all subcontracting Attorneys shall acquire and maintain malpractice insurance for a minimum of $100,000 for individual act or event with no more than a

$5,000 deductible, and shall provide proof of such insurance to the Purchasing Manager. Any subcontracting Attorneys must have current insurance certificates on file with Contractor prior to accepting cases.

Contractor shall indemnify and hold the City harmless from and against any and all claims for damage or injury which may involve any action by the Contractor in connection with the provision of indigent defense services.

11. Nondiscrimination:

No distinction on grounds of age, race, color, sex or national origin will be made in the acceptance of assignment or in the services provided by Contractor. Also, Contractor agrees to comply with City of Wichita Administrative Regulation #23, "Revised Nondiscrimination and Equal Employment Opportunity Statements", marked Exhibit A, attached hereto and incorporated herein by reference.

This agreement is entered into this 14th day of September, 2010.

IN WITNESS THEREOF, the City and the Indigent Defense Service Provider have executed this agreement as of the date first written above.

CITY OF WICHITA

_____

Carl Brewer, Mayor

Attest:

_____

Karen Sublett, City Clerk

_____

Melinda Walker
Purchasing Manager

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

_____

Cotton & Pittman Law Office
BY: Stephanie Pittman
Contract Administrator

(_____) Published in The Wichita Eagle, Friday, June 18, 2010

REQUEST FOR PROPOSAL NO. – FP030047

Sealed Request for Proposal will be received in the office of the City Purchasing Manager, 12th Floor, City Hall, 455 North Main, Wichita, Kansas, prior to **3:00 O'CLOCK P. M., THURSDAY, JULY 8, 2010. One (1) original and ten (10) copies of the proposal are required.** Envelopes must be marked **"Request for Proposal FP030047 show Due Date and Time** to identify contents. "Request for Proposal" submittal letter must be signed and dated to submit a proposal for:

MUNICIPAL COURT DEPARTMENT

Indigent Defense Services

AS PER SPECIFICATIONS

F.O.B.: Wichita, KS

Specifications for the sealed proposals are on file in the office of the City Purchasing Manager, 12th Floor, City Hall, 455 North Main, Wichita, Kansas, (316) 268-4636. This information is also available on the City of Wichita Web Site at http://ep.wichita.gov.

A **PRE-PROPOSAL CONFERENCE** will be held in the Board Room, on the First Floor of City Hall, 455 N. Main Street, Wichita, Kansas on **MONDAY, JUNE 28, 2010, at 11:00 A.M**. The purpose of the meeting will be to answer questions from vendors regarding the specifications and proposal procedure.

Sealed proposals shall be received in the office of the City Purchasing Manager prior to **3:00 o'clock p.m., THURSDAY, JULY 8, 2010**.

The review and evaluation of the submitted Proposals will take estimated 60 to 90 days before notification from the City of Wichita that a contract has been approved by City Council. If the Purchasing Division may be of further assistance, please contact us at (316)268-4636.

Dated at Wichita, Kansas on the 15th day of June, 2010.

Melinda A. Walker
Purchasing Manager

Revised 10/25/05

A T T E N T I O N

A PRE-PROPOSAL CONFERENCE WILL BE HELD IN

THE BOARD ROOM

FIRST FLOOR, CITY HALL

455 NORTH MAIN STREET

AT 11:00 A. M.

ON

MONDAY, JUNE 28, 2010

THE PURPOSE OF THE MEETING WILL BE TO REVIEW

REQUIREMENTS AND SPECIFICATIONS

CONTAINED IN THIS PROPOSAL PACKAGE AND TO CORRECT

ANY ERRORS OR TO MAKE ANY NECESSARY CHANGES.

ATTENDANCE AT THIS PRE-PROPOSAL IS **RECOMMENDED**

FOR THOSE FIRMS SUBMITTING PROPOSAL

AS A PRIME CONTRACTOR.

* * * * * * * * * * * * * * *

NOTICE...NOTICE...NOTICE

NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

AFFIRMATIVE ACTION PROGRAM REQUIREMENTS

1. It is the policy of the City of Wichita to require that all contracts of the City and its agencies include provisions to ensure that applicants for employment with its contractors, subcontractors, vendors and suppliers are selected and employees are treated during employment, without regard to race, color, sex, religion, national origin, ancestry, disability, or age except where age is a bona fide occupational qualification.

2. The Kansas Act Against Discrimination (Kansas Statutes Annotated 44-1001 et. seq., as amended) requires every person who enters into a contract with the City of Wichita for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services to:

a. Observe the provisions of the Kansas Act Against Discrimination and not to discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, or age unrelated to such person's ability to engage in the particular work.
b. In all solicitations or advertisement for employees, the contractor shall include the phrase "EQUAL OPPORTUNITY EMPLOYER" or a similar phrase to be approved by the Kansas Human Rights Commission.
c. Upon request, inform the Kansas Human Rights Commission and/or the City Of Wichita Finance Department in writing the manner in which such person will recruit and screen personnel to be used in performing the contract.
d. Contractor shall include the provisions of Paragraphs (a), (b), (c), and (d) of this Paragraph 2, in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
e. EXEMPTED from these requirements are:
   (1) Any contractor who has already complied with the provisions set forth in these sections by reason of holding a contract with the federal government or a contract involving federal funds. (Proof of compliance is required).
   (2) Contracts entered into by any contractor who employs fewer than four (4) employees during the term of such contract.
   (3) Contractors who hold contracts with the City of Wichita with a cumulative total value of five thousand dollars ($5,000.00) or less during the City fiscal year.
f. Reports requested by the Kansas Human Rights Commission shall be made on forms prepared by the Commission, copies of which are available from the Kansas Human Rights Commission, Contract Auditor, 900 S.W. Jackson Street, Suite 851 S., Topeka, Kansas, 66612.

3. During the performance of any City contract or agreement, the contractor, subcontractor, vendor or supplier of the City shall comply with all the provisions of the Civil Rights Act of 1964, as amended; The Equal Employment Act of 1972, Executive Orders 11246, 11375, 11141, Part 60 Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, The Americans with Disabilities Act and/or any law, regulation or amendments as may be promulgated thereunder.

4. Failure of any contractor, subcontractor, vendor or supplier to report to the Kansas Human Rights Commission as required by K.S.A. 1976 Supp. 44-1031 as amended or State statutes, Federal statutes or regulations pertaining to discrimination, which finding or decision or order has become final, shall be a breach of contract and any such contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.

5. Compliance with the Equal Employment Opportunity requirements of the City of Wichita does not relieve the contractor, subcontractor, vendor or supplier of the necessity of also complying with the Kansas Act Against Discrimination.

Exemptions Claimed: Four (4) Employees or less; Federal Contract, Contract less than $5,000.00.

NOTE: You will be contacted if you are the successful vendor and do not have a current EEO/AA submittal on file with the Purchasing Office and/or have not REGISTERED VIA THE CITY'S WEB SITE: http://ep.wichita.gov . Questions about the City of Wichita's EEO/AA submittal requirements should be directed to (316) 268-4508.

CITY OF WICHITA

REQUEST FOR PROPOSAL

FOR

INDIGENT DEFENSE SERVICES

I. BACKGROUND

Section 1.04.210 of the Code of the City of Wichita provides that persons charged with violations of certain city ordinances are entitled to representation by legal counsel in Municipal Court. If a defendant cannot legally afford to retain the services of an attorney, legal representation will be provided by the City of Wichita.

In 2009 the services of appointed legal counsel was provided in approximately 8,600 Municipal Court cases for approximately 6,900 defendants. Legal counsel is currently provided by a contractor who provides representation at all court dockets.

II. OBJECTIVES

The City of Wichita is soliciting proposals from interested and qualified attorneys or firms to provide indigent defense services to legally qualified persons who have cases pending before the Municipal Court. The current volume of legal services required in relation to the provision of public defender services necessitates expanded legal services. The City is seeking to contract with legal counsel who will perform defense services for a specified period of time and an agreed fee which are expressed as either an hourly rate, fixed fee per case, lump sum for each specifically identified service, or a retainer-based charge.

The City encourages any interested attorney, groups of attorneys who form joint ventures, and/or partnerships and are licensed in the State of Kansas to submit proposals in which compensation for legal services is set forth. The City reserves the right to reject any and all proposals and the right to select more than one provider to meet the anticipated need. The City further reserves the right to reject any individual(s) without rejecting an entire proposal.

III. SCOPE OF SERVICES

Professional services that the City anticipates having counsel provide are as follows:

1. Agree to accept all cases referred by the Municipal Court for indigent representation during the period of time designated by the agreement

governing such provision of services, unless a conflict of interest arises with a particular defendant.

2. Prepare, try or otherwise handle all indigent cases in the Municipal Court as may be assigned by a municipal court judge on any and all daily dockets of the court located at City Hall or the Neighborhood Court locations. Attorneys will be present at each docket upon which their clients' matters are scheduled, and at any other time the court orders. Public defenders' schedules are to include, but are not inclusive, a minimum of three (3) public defenders for the morning sessions and three (3) public defenders for the afternoon sessions. A public defender is to be assigned to the City of Wichita Drug Court and Mental Health Court Programs.

   Note: The daily dockets located in City Hall begin at 8:30 a.m. and run until they are completed. Neighborhood Court sessions begin at 3:00 p.m., four days a week, and run until they are finished. Neighborhood Court is located at Hyde Park Community Center, 201 S. Greenwood. These times and locations are subject to change.

3. Prepare and file appeals de novo in the Sedgwick County District Court.

4. Prepare and submit Diversion and Deferred Judgment Agreements for clients in the Municipal Court and appear at scheduled hearings.

5. Represent assigned clients in termination actions on diversions and deferred judgments in the municipal court, and prepare for and handle hearings thereon.

6. Represent assigned clients in parole and probation revocation proceedings and show cause hearings in the Municipal Court.

7. Review and prepare all cases for trial, or other scheduled hearing, in advance of the assigned court date.

8. Prepare all memorandums, motions, briefs, letters, or other legal documents on behalf of the client. No office space, equipment, supplies, staff support or expenses of any kind will be provided by the Municipal Court.

9. Maintain an office (outside of City Hall) in which the attorney(s) will meet with assigned clients to discuss their cases pending before the Municipal Court, during certain designated office hours which shall be made known to all appointed clients. The number of office hours during which the Public Defenders are available to meet with their assigned clients shall be established by agreement under the terms of the Public Defender contract. Further, the attorney(s) shall provide all assigned clients with a telephone

number at which the attorney(s) can be reached, or messages left by clients regarding their cases.

10. Maintain a record of all cases assigned and time expended on each case for review by the Municipal Court or the Internal Auditor at reasonable times and with notice, and to assist in an evaluation of the City's indigent defense program. Records should be maintained to provide summary statistical reports on the number of cases completed and in progress, hours per case, and dispositions of completed cases.

11. During initial meetings with defendants, explain the judicial process and the requirement that the defendant appear at each and every hearing as ordered by the Municipal Court.

12. Have copies available of applications for all Municipal Court diversion and deferred judgment programs to provide to defendants.

IV. OTHER REQUIREMENTS

The selected attorney(s)/firm(s) will be expected to comply with all appropriate Federal, State, and local regulations regarding contracting requirements, including nondiscrimination and equal employment opportunity.

The City will reserve the right in the contract with legal counsel to review counsel's performance and/or terminate counsel at any time, regardless of the stage at which counsel is involved on behalf of assigned clients in any Municipal Court matters.

The City will reserve the right to approve in advance and in writing any individual or individuals to whom the selected attorney(s)/firm(s) may choose to subcontract or assign to any portion of the services to be provided under this proposal.

The selected attorney(s)/firm(s) shall acquire malpractice insurance for a minimum of $100,000 for each individual act or event with no more than a $5,000 deductible, and shall provide proof of such insurance to the Purchasing Manager.

The selected attorney(s)/firm(s) shall indemnify and hold the City harmless from and against any and all claims for damage or injury, which may involve any action by the attorney(s)/firm(s) in connection with the provision of indigent defense services.

Before a contract is executed, the selected attorney(s)/firm(s) must submit to the City an approved Equal Employment Opportunity/Affirmative Action program. This does not need to be submitted with the proposal.

V. CRITERIA AND SCHEDULE FOR CONSIDERING PROPOSALS

A Screening and Selection Committee consisting of staff from various City departments and/or the community will evaluate proposals. At the discretion of the Selection Committee, respondents may be asked to make an oral presentation to clarify information in their submittal. The Selection Committee will make recommendations regarding the selection to the City Council and request authorization to enter into a contract with the approved firm.

The criteria for considering proposals will include: 1) the amount and terms of the fee proposed to be charged; 2) the legal experience of the attorney(s) who will perform the public defender services; 3) the response to this solicitation; and 4) all additional information necessary in the City's selection process (which process is intended to include an interview of selected proposers).

The City of Wichita reserves the right to accept or reject any or all proposals. Submission of a proposal indicates acceptance of the conditions contained in the Request for Proposal (RFP) and an agreement to negotiate a contract for services. The City reserves the right to make an award on the basis of greatest benefit to the City and is not obligated to select the lowest cost option.

The procedure the City proposes to follow in the selection of such legal counsel is as follows:

1. Responses to this solicitation to be received in the Office of the Purchasing Manager **by Thursday, July 8, 2010 by 3:00 p.m.** A Pre-Bid Conference will be held on Monday, June 28, 2010 at 11:00 a.m. in the City Hall Board Room on 1st Floor at 455 N Main Street, Wichita, Kansas.

2. One (1) original and ten (10) copies of the complete proposal must be submitted.

3. Review and selection of the best-qualified proposals.

4. A Selection Committee will conduct interviews with attorneys/firms that best respond to this solicitation and meet the requirements of the Request for Proposal.

5. The Committee will submit its recommendation for indigent defense legal counsel to the City Manager/City Council.

VI. PROPOSAL INSTRUCTIONS

If you are interested in providing professional defense services to the City of Wichita, please submit the following information in your response:

1. Individual resumes, or background of firm/agency, if applicable.

2. If firm/agency, the names and addresses of lawyers who will be handling the provision of public defender services to indigent defendants, listed in order of responsibility, if applicable, and with an indication of the share of the anticipated legal services each attorney will handle, i.e. Lawyer A-50%, Lawyer B-30%, Lawyer C-20%.

3. For each lawyer listed, provide a resume which includes, at a minimum:

   a) Educational background
   b) Work experience, including details of experience related to the representation of criminal defendants and representation of indigent clients;
   c) CLE credits relating to the areas in (b) above obtained over the last three (3) years (identifying whether as part of faculty or as participant);
   d) Articles, papers, books or other publications written for law journals, other legal publications, or other professional or trade publications and which relate to the areas in (b) above;
   e) Reference of at least three clients (if selected, they will be contacted).

4. For each lawyer above, provide the approximate percentage of time presently spent practicing in the areas of experience in (b) above.

5. List the names of any other lawyers associated with the firm/agency that are capable of performing the legal services that the City is soliciting with this request.

6. List the total number of lawyers, paraprofessionals, secretaries and other personnel in your firm that will be involved with this contract.

7. List any municipal, state and federal clients that your firm presently represents or that it has represented in the past five (5) years.

8. List your proposed schedule of fees for provision of the legal services solicited by this request.

9. Specify any alternative fee proposals you might have or wish to propose for any of the legal services set forth, keeping in mind that the City is interested in an arrangement which provides an up-front cost for the provision of indigent defense services in the Municipal Court.

10. State how you would resolve any conflicts and/or potential conflicts arising because of your firm's representation of indigent defendants in the Municipal Court.

11. State whether you or any member of your firm (if applicable) has had any disciplinary action imposed, the basis of the complaint, and its resolution.

12. State how, if selected, you would propose to facilitate consultations between yourself (and if applicable, the lawyers in your firm) and the indigent clients assigned to you by the Court.

    The City will provide access to Wichita Police Department reports pertaining to the charges pending against the client assigned.

13. State what benefits, if any, you provide to your employees, including health insurance, and at what cost to the employee.

VII. Fee

A fixed fee amount shall be specified. The fee will provide a "line item" budget for a twelve (12) month period and reflect both direct and indirect costs that are to be assessed to the program. For compensation line items, specify titles and amounts to be paid under the proposal. The contracted fee may be provided in any way desired, such as hourly rate, per case, monthly retainer, etc.

All proposals will be evaluated by the City of Wichita which reserves the right to reject any and all proposals or make an award based on the basis of the greatest benefit to the City and not necessarily on the lowest contract cost.

VIII. TIME FRAME

The terms of the contract into which the City intends to enter with the selected respondent will be for one (1) year with an option to renew for a period of one (1) or two (2) successive one year periods by mutual agreement of both parties. This contract is subject to cancellation by the City of Wichita upon thirty (30) days written notice.

There will be a **Pre-Bid Conference held on Monday, June 28, 2010 at 11:00 o'clock a.m.** in the First Floor Board Room of City Hall – 455 N. Main Street, Wichita, Kansas.

Proposals must be submitted in person or by mail on or before **Thursday, July 8, 2010 by 3:00 p.m.** Marked "Public Defender Proposal" addressed to:

MELINDA WALKER, PURCHASING MANAGER
12TH FLOOR, CITY HALL
455 N. MAIN, WICHITA, KANSAS 67202

Questions about the RFP process should be directed to:

Melinda Walker at (316) 268-4411

Questions about the details or contents of this RFP should be directed to:

Donte Martin
Interim Municipal Court Administrator
City Hall
455 N. Main
Wichita, Kansas 67202
(316) 268-4345

RFP CONDITIONS

1. Certification 1-The Consultant hereby certifies that:

   A. The Consultant has not employed or retained for a commission, percentage, brokerage, contingent fee, override or other consideration, any firm or person at any time or for any purpose, (other than a bona fide employee working solely for the above Consultant) to **solicit** or secure this Agreement.

   B. The Consultant has not agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement.

   C. The Consultant has not paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if any).

2. Certification 2- The Consultant hereby certifies that:

   No Lobbying and Influencing Federal and/or City Employees or City Council Members:

   (a) No Federal or locally appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, an officer or employee or City Council member of the City of Wichita, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

   (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities" in accordance with its instruction.

3. Certification 3-The Consultant hereby certifies that:

   Conflict of Interest
   The Consultant certifies that no member, officer, employee, agent, or City Council member of the City of Wichita member exercising any functions or responsibilities with respect to the program outlined in this contract shall have any personal financial interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. The Consultant shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purposes of this section. The Consultant shall use due diligence to ensure employees, Board members, family members and officers do not participate in contracts receiving funds pursuant to this agreement.

KANSAS OPEN RECORDS ACT

Pursuant to the Kansas Open Records Act (K.S.A. 45-215 et seq.), all proposals received become a public record once award of the contract or agreement has been approved by the City Council. Proposing firms should not expect the City to seek confidentiality protection for any claimed privileged or proprietary information in the written proposal just because the material is marked "confidential" or "proprietary." For any essential information that the proposing firm reasonably believes can be defended as being exempt from disclosure under the Act, the informal must be capable of being separated or redacted from the balance of the proposal and should be clearly and specifically marked as confidential or proprietary. For any material so designated, the City will seek to claim confidentiality if the justification for such confidentiality is readily apparent or if the proposing firm requests that the City to contact the proposing firm for guidance before making the material public. The City cannot guarantee the confidentially of claimed material, however.

SUBCONTRACTING/JOINT VENTURES

Proposing firms are encouraged to consider subcontracting portions of the contract to emerging and disadvantaged businesses and women-owned businesses. A joint venture between two or more firms is wholly acceptable if it serves the best interests of the City of Wichita. If this is done, the names of the proposed subcontracting firms must be clearly identified in the proposal. Following an award of the contract, no additional subcontracting will be permitted without the express prior written consent of the City of Wichita. The firm receiving the contract award will be responsible for any work of such subcontractors and sign the contract with the City of Wichita.

EMERGING AND DISADVANTAGED BUSINESS PARTICIPATION

The City of Wichita encourages all proposing firms to include emerging and disadvantaged business participation in their proposals. Therefore, each proposing firm shall specifically identify the participation of emerging and disadvantaged contractors and subcontractors in the work to be performed by the proposing firm and shall list such emerging and disadvantaged contractors or subcontractors by name and show the dollar amount of work to be performed by each in the proposal.

June 29, 2010

CITY OF WICHITA, KANSAS

REQUEST FOR PROPOSAL NUMBER FP030047

ADDENDUM #1

MUNICIPAL COURT DEPARTMENT

Indigent Defense Services

DUE DATE: THURSDAY, JULY 8, 2010 AT 3:00 P.M.

The following item has been added to the specifications and made a part of **this proposal following the pre-proposal conference.**

Contract provider will be responsible for meeting with clients housed at the Sedgwick County Detention Facility upon the defendant being appointed representation by a public defender. It is expected that this meeting will take place prior to the defendant's next Municipal Court hearing date.

Contract provider will be responsible for attending Mental Health Court and Drug Court staffing meetings in addition to providing coverage for both dockets.

Questions about the details or contents of the RFP after July 1, 2010 should be directed to: Melinda Walker, Purchasing Manager, email mwalker@wichita.gov or telephone (316) 268-4636.

Each vendor is required to acknowledge receipt of this Addendum by his signature affixed hereto and to file same with and attached to this proposal.

Melinda A. Walker
Melinda A. Walker
Purchasing Manager

* *

The undersigned acknowledges receipt of this Addendum and the proposal submitted herewith is in accordance with the information, instruction and stipulations set forth herein

_______________________ Date

_______________________ Company Name

_______________________ Signature of Company Representative

_______________________ Print Name of Company Representative

_______________________ Title

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Access Easement and Drainage Dedication for Steven's Lake, north of 21st Street North, east of Ridge Road (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the agreements.

Background: At the request of the homeowners in Barefoot Bay, a permanent access easement and a drainage dedication have been prepared by Open Land, LLC to allow the City to maintain the Big Slough North drainage channel across property owned by Open Land, LLC between the K&O Railroad and the lake in Mere Ridge Subdivision, located near the intersection of Ridge Road and 25th Street North.

Analysis: Improved maintenance of this channel will improve the flood conveyance ability of the Big Slough North in this area.

Financial Considerations: The maintenance of the channel will be done within the Stormwater Utility operating budget.

Goal Impact: This project addresses the Safe and Secure Community goal by improving flood protection.

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

Recommendation/Action: It is recommended that the City Council approve the easement and dedication and authorize the Mayor to sign.

Attachments: Agreements.

ACCESS EASEMENT

THIS ACCESS EASEMENT made this _____ day of _____ _____, 20__, by and between **Open Land, LLC**, a Kansas Limited Liability Company, (hereafter "Open Land")and **The City of Wichita, Kansas**, a Municipal Corporation, (hereafter "City").

WITNESSETH

WHEREAS, Open Land is the owner of the following described real property, to wit:

Tract I

A tract of land in the NW ¼ of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as beginning at the SE corner of Lot 1, Block 1, Lakeside Park, an Addition to Wichita, Sedgwick County, Kansas; thence southeasterly (along the southerly line of a tract of land described in quit claim deed recorded at Film 2479, Page 1505) along a curve to the right having a radius of 185 feet, an arc length of 146.23 feet, a central angle of 45°17'14", a chord bearing and distance of S69°01'50"E, 142.45 feet; thence S46°23'13"E, (along the southerly line of a tract of land described in quit claim deed recorded at Film 2479, Page 1505) 486.24 feet; thence S48°28'22"E, (along the southerly line of a tract of land described in quit claim deed recorded at Film 2479, Page 1505) 601.08 feet; thence S67°39'55"E, (along the southerly line of a tract of land described in quit claim deed recorded at Film 2479, Page 1505) 472.92 feet; thence N50°32'35"E, (along the southerly line of a tract of land described in quit claim deed recorded at Film 2479, Page 1505) 46.77 feet to a point on the westerly right-of-way line of the Kansas Southwestern Railroad, (formerly the Missouri Pacific Railroad); thence S39°27'38"E along said railroad right-of-way, 1025.24 feet more or less to the intersection of the westerly right-of-way of the Kansas Southwestern Railroad,

(formerly the Missouri Pacific Railroad), and the north right-of-way line of Meadow Grove, as platted in Horseshoe Bay, an Addition to Wichita, Sedgwick County, Kansas; thence S50°32'11"W, along the north line of said Meadow Grove 110.19 feet to the northeast corner of Lot 1, Block 1 in said Horseshoe Bay; thence northwesterly along the northerly lines of Lots 1, 2, and 3 in said Block 1, an arc length of 340.92 feet, a radius of 640 feet, a chord bearing and distance of N78°43'19"W, 336.90 feet, to the northern most north corner of said Lot 3, said point being on an east line of Reserve "A", Méré Ridge, an Addition to Wichita, Sedgwick County, Kansas; thence N00°24'04"E, along the northeasterly line of said Reserve "A", 86.37 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S73°23'55"W, along the northeasterly line of said Reserve "A", 97.94 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N56°27'00"W, along the northeasterly line of said Reserve "A", 143.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N80°30'00"W, along the northeasterly line of said Reserve "A", 157.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S26°12'00"W, along the northeasterly line of said Reserve "A", 51.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S68°02'00"W, along the northeasterly line of said Reserve "A", 59.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N68°56'00"W, along the northeasterly line of said Reserve "A", 171.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N18°45'00"W, along the northeasterly line of said Reserve "A", 62.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N38°24'00"E, along the northeasterly line of said Reserve "A", 48.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N17°58'00"E, along the northeasterly line of said Reserve "A", 53.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N46°35'00"W, along the northeasterly line of said Reserve "A", 113.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S86°58'00"W, along the northeasterly line of said Reserve "A", 72.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N59°13'00"W, along the northeasterly line of said Reserve "A", 166.03 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N19°22'08"W, along the northeasterly line of said Reserve "A", 361.32 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S89°55'00"W, along the northeasterly line of said Reserve "A", 117.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N57°52'00"W, along the northeasterly line of said Reserve "A", 151.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S62°45'00"W, along the northeasterly line of said Reserve "A", 223.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S77°30'00"W, along the northeasterly line of said Reserve "A", 138.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence S64°57'00"W, along the northeasterly line of said Reserve "A"; 102.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N72°59'00"W, along the northeasterly line of said Reserve "A", 110.00 feet to a P.I. in the northeasterly

line of said Reserve "A"; thence N42°10'00"W, along the northeasterly line of said Reserve "A", 171.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N11°34'00"W, along the northeasterly line of said Reserve "A", 134.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N36°28'00"W, along the northeasterly line of said Reserve "A", 227.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N09°34'00"W, along the northeasterly line of said Reserve "A", 205.00 feet to a P.I. in the northeasterly line of said Reserve "A"; thence N12°38'00"E, along the northeasterly line of said Reserve "A", 279.8 feet to a point on the south line of Wedgewood as platted in said Lakeside Park; thence N88°20'24"E, along the south line of said Wedgewood, 137.87 feet to the SE corner of said Lakeside Park; thence N00°26'01"E, along the east line of said Lakeside Park, 70.04 feet to the point of beginning.

and,

WHEREAS, whereas Open Land has by separate instrument dedicated the following described portion of Tract I to said City for drainage purposes, hereinafter identified as Tract II:

Tract II

That part of the Northwest Quarter of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the most northerly deflection corner in the rear line of Lot 3, Block 1, Horseshoe Bay, an Addition to Wichita, Sedgwick County, Kansas, said deflection corner also being a point on the east line of Reserve "A", Méré Ridge, an Addition to Wichita, Sedgwick County, Kansas; thence N00°24'04"W along the east line of said Reserve "A", 86.37 feet to the northeast corner of said Reserve "A", and for a point of beginning; thence S73°23'55"W along the north line of said Reserve "A", 83.31 feet; thence N00°24'04"W, 373.89 feet; thence N31°53'44"W, 113.89 feet; thence N09°07'36"E, 60.00 feet; thence N50°32'11"E, 49.97 feet to a point on the southwesterly right-of-way line of the Kansas Southwestern Railroad; thence S39°27'38"E along said southwesterly right-of-way line, 144.05 feet; thence S00°24'04"E, 426.56 feet to the point of beginning.

and,

WHEREAS, City, as owner of Tract II, will require a means of ingress and egress to and from said Tract II to maintain a drainage facility to be constructed on said Tract II and whereas the undersigned are willing to grant a temporary access easement (hereinafter described) for that purpose at this time.

NOW, THEREFORE, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the undersigned, Open Land, does hereby grant to City, a temporary access easement over, on and across a portion of Tract I, for the purpose of enabling said City to have and enjoy a means of ingress and egress to and from said Tract II to allow City to maintain the drainage facility to be constructed on said Tract II. The easement hereinafter described is to be utilized by the City exclusively for ingress and egress and for no other purpose whatsoever. Open Land, as Grantor, reserves all other rights to the use of the property providing the same do not interfere or obstruct the drainage facility constructed by the City of Wichita. Open Land and the City agree that all costs whatsoever to maintain the drainage facility shall be borne solely by the City and Open Land will not be assessed or levied or charged for any such costs.

Temporary Easement

The Temporary Easement is legally described and set forth as:

A 24.00 foot wide tract of land in the Northwest Quarter of Section 3, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas lying 12.00 feet each side of the following described centerline: Commencing at the southeast corner of Wedgewood as dedicated in Lakeside Park, an Addition to Wichita, Sedgwick County, Kansas; thence N00°26'01"E along the east line of said Wedgewood, 35.04 feet; thence N79°25'27"W, 3.13 feet for a point of beginning; thence S79°25'27"E, 56.36 feet; thence S67°26'13"E, 59.30 feet; thence S53°20'01"E, 42.81 feet; thence S32°01'10"E, 33.45 feet; thence S10°45'06"E, 29.44 feet; thence S00°00'00"E, 31.10 feet; thence S13°41'10"E, 25.31 feet; thence S26°57'53"E, 32.00 feet; thence S36°27'41"E, 41.56 feet; thence S42°49'11"E, 36.33 feet; thence S46°54'06"E, 65.80 feet; thence S48°32'27"E, 77.20 feet; thence S53°45'40"E, 71.95 feet; thence S49°31'37"E, 62.38 feet; thence S42°10'09"E, 144.81 feet; thence S42°53'00"E, 76.92 feet; thence S45°37'37"E, 55.54 feet; thence S51°49'24"E, 59.47 feet; thence S54°06'36"E, 170.70 feet; thence S56°50'40"E, 39.20 feet; thence S59°13'30"E, 51.07 feet thence S67°48'26"E, 29.57 feet; thence S73°37'08"E, 32.23 feet; thence S75°53'26"E, 78.29 feet; thence S75°30'12"E, 255.37 feet; thence S75°05'34"E, 42.76 feet; thence S63°26'51"E, 32.53 feet; thence S51°56'33"E, 34.65 feet; thence S40°49'59"E, 41.99 feet; thence S35°29'25"E, 38.83 feet; thence S31°28'15"E, 72.44 feet; thence S27°18'58"E, 74.66 feet; thence S31°49'42"E, 46.20 feet; thence S33°57'51"E, 91.73 feet to the point of termination, said point of termination being S89°35'55"W along the south line of said Northwest Quarter, 494.03 feet, and N00°04'28"E parallel with the east line of said Northwest Quarter, 459.19 feet, from the southeast corner of said Northwest Quarter all being subject to road rights-of-way of

record, TOGETHER with a tract of land in said Northwest Quarter described as follows: Commencing at the southeast corner of said Northwest Quarter; thence S89°35'55"W along the south line of said Northwest Quarter, 24.08 feet for a point of beginning; thence continuing S89°35'55"W along the south line of said Northwest Quarter, 65.21 feet; thence N44°55'21"W, 104.99 feet; thence N59°20'34"W, 63.74 feet; thence N64°35'18"W, 105.82 feet; thence N47°51'52"W, 32.99 feet; thence N25°59'12"W, 30.88 feet; thence N12°54'51"W, 35.05 feet; thence N06°08'38"W, 39.96 feet; thence N04°36'47"W, 14.76 feet; thence N30°30'49"W, 20.10 feet; thence N40°08'26"W, 33.93 feet; thence N41°59'14"W, 45.09 feet; thence N00°24'04"W, 49.29 feet; thence S53°21'07"E, 31.33 feet; thence S43°31'03"E, 74.26 feet; thence S51°27'24"E, 20.46 feet; thence S64°52'45"E, 20.75 feet; thence S71°59'46"E, 17.37 feet; thence S63°54'27"E, 25.82 feet; thence S38°56'13"E, 19.81 feet; thence S23°05'10"E, 16.03 feet; thence S13°59'54"E, 34.87 feet; thence S23°50'49"E, 21.49 feet; thence S34°03'48"E, 18.76 feet; thence S41°48'23"E, 17.27 feet; thence S42°02'32"E, 101.56 feet; thence S48°38'46"E, 59.07 feet; thence S44°18'31"E, 33.18 feet; thence S41°46'28"E, 52.60 feet; thence S56°41'21"E, 29.23 feet to the point of beginning, all being subject to road rights-of-way of record.

It is agreed that temporary access to said Tract II shall be via an existing roadway as shown on the attached Exhibit "A" until such time as development occurs on Tract I. At such time that Open Land grants or dedicates a permanent access easement to the City on Tract I, and Tract I is platted, and either public street right of way is dedicated and constructed or private street reserves are dedicated and constructed, said Temporary Access Easement shall thereafter terminate; and upon request of either party, a Termination Agreement shall be executed and recorded.

It is further agreed by Open Land and the City that at such time as Open Land grants or dedicates a permanent access easement to the City, either by written instrument or the platting of Tract I, that the permanent access easement shall include the following conditions:

1. The permanent access easement shall be a minimum of 20' in width.

2. The permanent access easement will provide an easement over, on and across Tract 1 to Tract 2, the City to have the responsibility for the maintenance thereof.

3. If public street rights of ways are platted and constructed, or if private street reserves are platted and constructed on Tract 1, then the permanent access easement to Tract 2 will be via these pubic street rights of ways or private street reserves, which ever is

applicable, wherever they exist, provided however that such public or private streets must provide the City with a continuous connection from a public street to Tract II.

4. If a bridge is constructed across Tract 2; the permanent access easement, or the temporary access easement hereinabove described, whichever is applicable, will thereafter be limited solely to the east portion of Tract 1 and access to Track II will be via the bridge. In such event and upon the complete construction of the aforementioned bridge, said temporary access easement on Tract I north of Tract II shall thereafter terminate; and upon the written request of either party, a Termination Agreement shall be executed and recorded.

5. Such permanent access easement is not available to the public nor shall public access to the same be permitted.

It is understood and agreed that by this grant the grantor herein confers this temporary access easement for the sole benefit of said City, and that this grant does not constitute a dedication of the temporary access easements aforementioned existing roadway for use for road purposes by the public in general.

It is agreed by and between the parties hereto that such temporary access easement shall be a perpetual access easement until and unless amended, revoked, or released by all of the parties in interest or their successors or assigns and that the same shall be a covenant running with the land and shall be binding upon the grantors herein, their grantees, their heirs, assigns, licensees, successors, and assignees in interest.

It is further contracted and covenanted that such easement shall be for driveway, ingress, and egress purposes and such easement shall not be used for parking purposes or utilized in any manner so as to impede or inconvenience the use of such easement for the purposes herein setforth. Maintenance of said temporary access easement shall be for the mutual interest for all parties and their successors, heirs, and/or assigns. Until the termination of the temporary access easement, Open Land agrees it shall not remove the aforementioned existing roadway, nor shall the City make any demands upon Open Land to make any improvements to this existing private roadway.

In testimony whereof the undersigned has set their hands this ____ day of
_____, 20__.

Open Land, LLC

The City of Wichita, Kansas

By:_____

By:_____
Carl Brewer, Mayor

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2010, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came _____ as _____ of Open Land, LLC, a Kansas limited liability company, who is personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

_____
Notary Public

(My Appointment Expires: _____)

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2010, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Carl Brewer, as Mayor of The City of Wichita, Kansas, a municipal corporation, who is personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

_____
Notary Public

(My Appointment Expires: _____)

DRAINAGE DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Open Land, LLC, a Kansas Limited Liability Company, being the owner(s) of the following described real estate in Wichita, Sedgwick County, Kansas, to wit:

> That part of the Northwest Quarter of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the most northerly deflection corner in the rear line of Lot 3, Block 1, Horseshoe Bay, an Addition to Wichita, Sedgwick County, Kansas, said deflection corner also being a point on the east line of Reserve "A", Méré Ridge, an Addition to Wichita, Sedgwick County, Kansas; thence N00°24'04"W along the east line of said Reserve "A", 86.37 feet to the northeast corner of said Reserve "A", and for a point of beginning; thence S73°23'55"W along the north line of said Reserve "A", 83.31 feet; thence N00°24'04"W, 373.89 feet; thence N31°53'44"W, 113.89 feet; thence N09°07'36"E, 60.00 feet; thence N50°32'11"E, 49.97 feet to a point on the southwesterly right-of-way line of the Kansas Southwestern Railroad; thence S39°27'38"E along said southwesterly right-of-way line, 144.05 feet; thence S00°24'04"E, 426.56 feet to the point of beginning. (Hereinafter referred to as "Drainage Dedication" and shown on the attached Exhibit "A" as "Tract II."

does hereby dedicate the above-described real estate to the City of Wichita, Kansas, a municipal corporation, exclusively for drainage purposes. Open Land, LLC retains the rights to construct a bridge across the above dedicated land. The bridge will be constructed to City of Wichita standards and the design of said bridge will be submitted to the City of Wichita for approval. Such approval shall not be unreasonable conditioned, delayed, or withheld.

Upon receipt of this Drainage Dedication the City of Wichita agrees:

1. To maintain and keep free from weeds and debris the real estate described above at City's sole expense
2. Any construction in the described real estate, except a bridge across the dedicated land, will be the sole cost and responsibility of the City.
3. The City will not assess or cause any costs to be levied directly upon Open Land, LLC, or its successors, the cost of any construction, maintenance or other expense associated with the property dedicated, except the cost of a bridge across the dedicated land.
4. To assume all responsibility for compliance with the Army Corps of Engineers, Kansas Division of Water Resources, or any other governmental or regulatory agency exercising jurisdiction over the land hereinabove dedicated.

In testimony whereof the undersigned has set their hands this ____ day of _____, 20___.

Open Land, LLC

By:_____

The City of Wichita, Kansas

By:_____
Carl Brewer, Mayor

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2010, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came _____ as _____ of Open Land, LLC, a Kansas limited liability company, who is personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) 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.

_____
Notary Public

(My Appointment Expires: _____)

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2010, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Carl Brewer, as Mayor of The City of Wichita, Kansas, a municipal corporation, who is personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same, for and on behalf and as the act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

_____
Notary Public

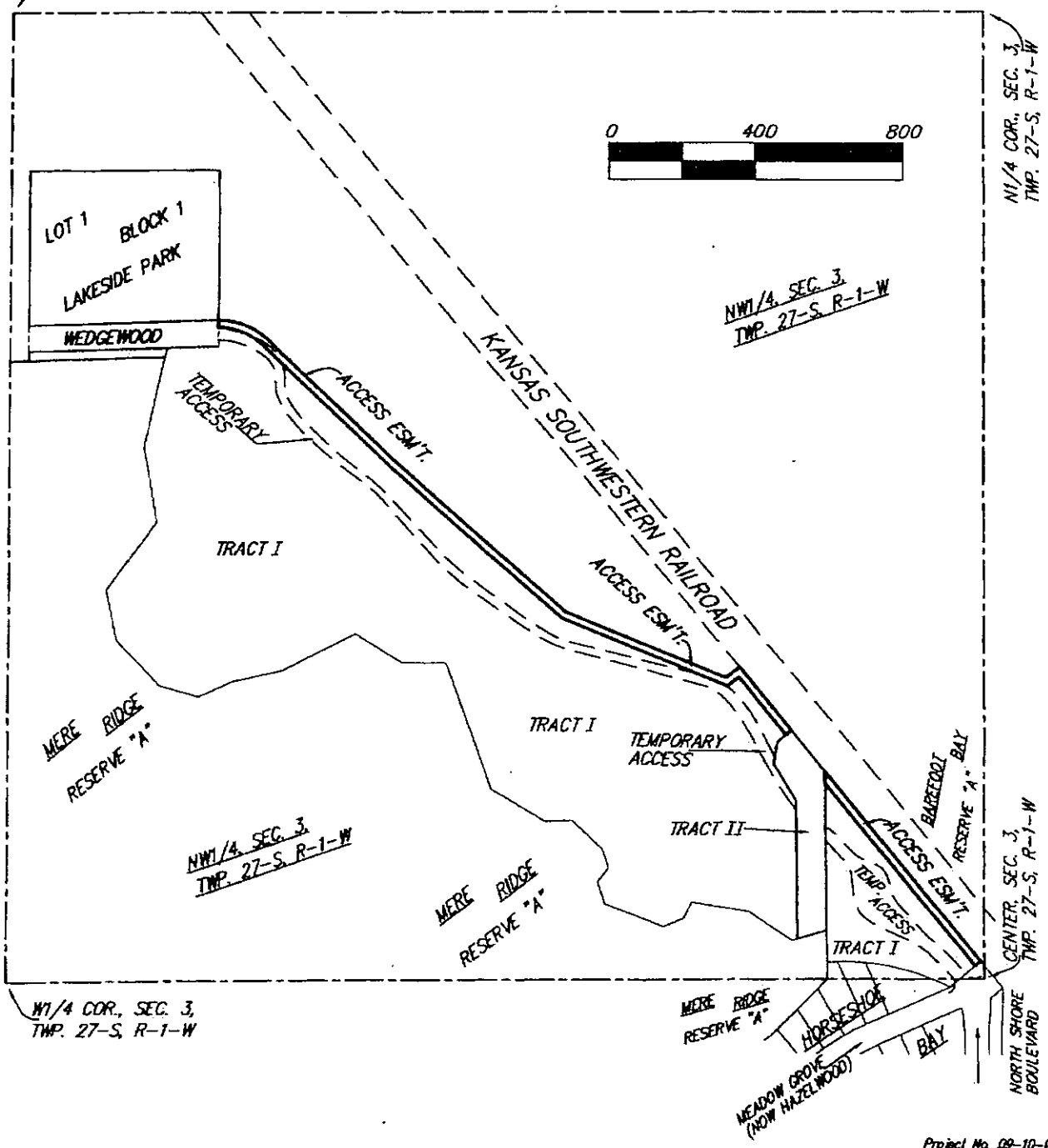
(My Appointment Expires: _____)

EXHIBIT "A"

Baughman
ENGINEERING | SURVEYING | PLANNING
LANDSCAPE ARCHITECTURE

INDICATES AREA OF LEGAL DESCRIPTION FOR TRACT II

INDICATES AREA OF LEGAL DESCRIPTION FOR ACCESS EASEMENTS



Project No. 09-10-0060

DWG FILE: F:\SURVEY\MISC\RITCHIE-STEVEN DITCH 09-10-0060\DWG\RITCHIE-STEVEN DITCH 09-10-0060.DWG-MCC

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Transfer of CIP Funds (All Districts)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendation: Approve the transfer of CIP funds.

Background: Each year the City Council authorizes Water and Sewer Department Capital Improvement Program (CIP) expenditures for reconstructing old sanitary sewers (S-4), installing sewer mains for future development (S-5), installing water mains to meet the needs of current development (W-65) and replacing old water mains (W-67). Sub-projects are defined as problems are identified or as development is taking place. When the sub-project is defined, the cost is estimated and a budget is set up using funds from the appropriate project (S-4, S-5, W-65 or W-67). When the sub-project is complete, the remaining budget is transferred back to the main project, available to be used for other sub-projects initiated in that same year.

However, not all projects are completed in one fiscal year. Therefore, not all of the funds approved are able to be spent in the year for which they were approved.

Analysis: In order to be very clear on spending and bonding authority for projects not completed in one fiscal year, and for funds remaining when sub-projects are completed in a subsequent fiscal year, staff is requesting authorization to transfer 2009 funds remaining in S-4, S-5, W-65 and W-67 to the current year budget, and to amend the the bond resolutions for the current year. Most 2009 sub-projects are now substantially complete and the 2009 projects will be closed. This process avoids the need to overbudget for these projects in order to cover the estimated costs rather than the actual costs.

Financial Considerations: The following amounts were not used in 2009 and are needed in 2010.

- S-4 $2,182,793
- S-5 $1,349,612
- W-65 $3,296,800
- W-67 $3,266,525

Transferring these funds will not increase CIP expenditures.

Goal Impact: These projects address the Efficient Infrastructure goal by providing needed maintenance and expansion of the City's water and sanitary sewer systems.

Legal Considerations: The amending resolutions have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council amend the CIP, adopt the amending resolutions, approve the transfer of CIP funds and authorize the necessary signatures.

Attachments: Amending resolutions.

RESOLUTION NO. 10-247

A RESOLUTION AMENDING RESOLUTION NO. **10-004** PERTAINING TO THE **WATER DISTRIBUTION MAINS FOR FUTURE DEVELOPMENT (W-65)** 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:

SECTION 1. That Section 1 of Resolution No **10-004** is hereby amended to read as follows:

> "**SECTION 1.** It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas **Water and Sewer Utility** such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, **water distribution mains for future development (W-65) (**called the "Project"). The total costs of the Project are estimated to be **$4,796,800** exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project."

SECTION 2. That Section 3 of Resolution No. **10-004**is hereby amended to read as follows:

> **"SECTION 3.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed **four million seven hundred ninety-six thousand eight hundred dollars ($4,796,800) in 2010** exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose."

SECTION 3. That the original of Sections 1 and 3 of Resolution **10-004** is hereby rescinded.

Adopted at Wichita, Kansas, September 14, 2010.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

RESOLUTION NO. 10-248

A RESOLUTION AMENDING RESOLUTION NO. **10-006** PERTAINING TO THE **RECONSTRUCTION AND/OR REHABILITATION OF SANITARY SEWERS (S-4)** 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:

SECTION 1. That Section 1 of Resolution No. **10-006** is hereby amended to read as follows:

> "**SECTION 1.** It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas **Water and Sewer Utility** such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, **reconstruction and/or rehabilitation of sanitary sewers (S-4) (**called the "Project"). The total costs of the Project are estimated to be **$3,682,793** exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project."

SECTION 2. That Section 3 of Resolution No. **10-006** is hereby amended to read as follows:

> **"SECTION 3.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed **three million six hundred eighty-two thousand seven hundred ninety-three dollars ($3,682,793) in 2010** exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose."

SECTION 3. That the original of Sections 1 and 3 of Resolution **10-006** is hereby rescinded.

Adopted at Wichita, Kansas, September 14, 2010

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

RESOLUTION NO. 10-249

A RESOLUTION AMENDING RESOLUTION NO. **10-007** PERTAINING TO THE **SANITARY SEWER MAINS FOR FUTURE DEVELOPMENT (S-5)** 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:

SECTION 1. That Section 1 of Resolution No. **10-007** is hereby amended to read as follows:

> "**SECTION 1.** It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas **Water and Sewer Utility** such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, **sanitary sewer mains for future development (S-5) (**called the "Project"). The total costs of the Project are estimated to be **$3,849,612** exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project."

SECTION 2. That Section 3 of Resolution No. **10-007** is hereby amended to read as follows:

> **"SECTION 3.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed **three million eight hundred forty-nine thousand six hundred twelve dollars ($3,849,612) in 2010** exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose."

SECTION 3. That the original of Sections 1 and 3 of Resolution **10-007** is hereby rescinded.

Adopted at Wichita, Kansas, September 14, 2010.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

RESOLUTION NO. 10-250

A RESOLUTION AMENDING RESOLUTION NO. **10-005** PERTAINING TO THE **WATER DISTRIBUTION MAIN REPLACEMENT (W-67)** 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:

SECTION 1. That Section 1 of Resolution No. **10-005** is hereby amended to read as follows:

> "**SECTION 1.** It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas **Water and Sewer Utility** such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, **water distribution main replacement (W-67) (**called the "Project"). The total costs of the Project are estimated to be **$5,766,525** exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project."

SECTION 2. That Section 3 of Resolution No. **10-005** is hereby amended to read as follows:

> **"SECTION 3.** It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed **five million seven hundred sixty-six thousand five hundred twenty-five dollars ($5,766,525) in 2010** exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose."

SECTION 3. That the original of Sections 1 and 3 of Resolution **10-005** is hereby rescinded.

Adopted at Wichita, Kansas, September 14, 2010.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

OCA: 635695

(Published in the Wichita Eagle, on September 17, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $4,796,800, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 10-247, duly adopted September 14, 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, construction of water mains for future development (W-65) (called the "Project"). The total costs of the Project are estimated to be four million seven hundred ninety-six thousand eight hundred dollars ($4,796,800) in 2010. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $4,796,800 in 2010, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less that Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 14 2010.

/s/ CARL BREWER, Mayor

ATTEST:

/s/ KAREN SUBLETT, City Clerk

OCA 620551

(Published in the Wichita Eagle, on September 17, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $3,682,793, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution 10-248, duly adopted September 17, 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, reconstruction and relocation of old sanitary sewers (S-4) (called the "Project"). The total costs of the Project are estimated to be three million six hundred eighty-two thousand seven hundred ninety-three dollars ($3,682,793) in 2010. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $3,682,793 in 2010, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less that Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 14, 2010.

/s/ CARL BREWER, Mayor

ATTEST:

/s/ KAREN SUBLETT, City Clerk

OCA 622114

(Published in the Wichita Eagle, on September 17, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $3,849,612, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution 10-249, duly adopted September 14, 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, construction of sanitary sewer mains for future development (S-5) (called the "Project"). The total costs of the Project are estimated to be three million eight hundred forty-nine thousand six hundred twelve dollars ($3,849,612) in 2010. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $3,849,612 in 2010, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less that Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 14, 2010.

/s/ CARL BREWER, Mayor

ATTEST:

/s/ KAREN SUBLETT, City Clerk

OCA 636230

(Published in the Wichita Eagle, on September 17, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $5,766,525 FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 10-250, duly adopted September 14, 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, replacement and relocation of water distribution lines (W-67) (called the "Project"). The total costs of the Project are estimated to be five million seven hundred sixty-six thousand five hundred twenty-five dollars ($5,766,525) in 2010. The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $5,766,525 in 2010, under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within Fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less that Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 14, 2010

/s/ CARL BREWER, Mayor

ATTEST:

/s/ KAREN SUBLETT, City Clerk

City of Wichita
City Council Meeting
September 14, 2010

TO: Mayor and City Council

SUBJECT: Underwriting of Exploration Place's "WaterWorks" Exhibition (All District)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the sponsorship funding

Background: The City of Wichita is committed to providing a reliable supply of safe water to its citizens. This commitment is visible in City initiatives such as the Wichita Area Treatment, Education, and Remediation (WATER) Center, the Water Conservation Program, the Aquifer Storage and Recovery project, the Arkansas River water quality campaigns, and numerous water-related codes, programs and initiatives.

In 1991, the City Council, in accordance with State regulations, adopted a Water Conservation Plan that focuses on three areas: regulatory, management, and education. Each year, the Water Conservation Program uses a portion of its budget to fund water-focused public information campaigns and education initiatives to help the greater Wichita community understand its water consumption, conservation options, rate structure, and care for future water resources. The campaigns range from radio spots, printed material, and educational exhibits to offsetting the cost of water conservation installations.

The Water Conservation Program is currently operated out of the WATER Center facility.

Analysis: The Department of Public Works is seeking approval to expend $25,000 from the City's Water Conservation Program budget to underwrite a portion of Exploration Place's "WaterWorks" traveling exhibition.

Between October 2010 and January 2011, Exploration Place will host the international exhibit, "WaterWorks," which tells the complex story of water. The 5000-square foot exhibition will dominate Exploration Place's exhibition space and be accompanied by a complementary CyberDome theater program. The exhibition has an engineering style and will give visitors opportunities to work with water, harness its power, and learn about its challenges. The exhibit is organized in four themes: the physical properties of water, water for life, harnessing water's power, and the water theater.

This traveling exhibition is timely and uniquely relevant to not only the City's Water Conservation Program goals, but also the of WATER Center's education mission, the Aquifer Storage and Recharge Project, and other water quality and quantity initiatives. Although Exploration Place's exhibition will be short-lived, the City's projects are not. Connecting the "WaterWorks" visitors with local, on-the-ground, water projects is the objective of this partnership

At this sponsorship level, Exploration Place will recognize the City/WATER Center in all printed material, marketing, and media spots. Exploration Place has also invited the City to showcase its water-related projects and initiative in a section of the main exhibition space.

Financial Considerations: Funding for this sponsorship is available from the Water Conservation Program budget fiscal year 2010.

Goal Impact: This sponsor partnership addresses the Quality of Life goal by educating citizens on water pollution and conservation concepts to protect the City of Wichita's natural resources.

Legal Considerations: None.

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

Attachments: None.

Second Reading Ordinances for September 14, 2010 (first read on August 24, 2010)

CIP Design Contracts.

ORDINANCE NO. 48-807

a. An ordinance declaring the 21st and Maize intersection, (472-84924) 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.

ORDINANCE NO. 48-808

b. An ordinance declaring 135th street West, between 13th street and 21st Street, (472-84925) 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.

ORDINANCE NO. 48-809

c. An ordinance declaring 135th Street West, between Kellogg and Onewood street, (472-84915) 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.

ORDINANCE NO. 48-810

d. An ordinance declaring Amidon, between 21st street and 29th Street, (472-84914) 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.

ORDINANCE NO. 48-811

e. An ordinance declaring Central, between Rock Road and Webb road (472-84916) 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.

ORDINANCE NO. 48-812

f. An ordinance declaring Lewis, between Main and St. Francis, (472-84917) 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.

ORDINANCE NO. 48-813

g. An ordinance declaring Market, between Dewey and Douglas, (472-84918) 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.

ORDINANCE NO. 48-814

h. An ordinance declaring Meridian, between Orient and McCormick, (472-84919) 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.

ORDINANCE NO. 48-815

i. An ordinance declaring St. Francis, between Douglas and 2nd, (472-84920) 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.

ORDINANCE NO. 48-816

j. An ordinance declaring Tyler, between 21st street and 29th street, (472-84921) 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.

ORDINANCE NO. 48-817

k. An ordinance declaring the Pawnee Bridge at the Arkansas River, (472-84922) 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.

ORDINANCE NO. 48-818

l. An ordinance declaring the Southeast Boulevard Bridge at the drainage canal, (472-84923) 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.

ZON2010-00023 City zone change from MF-29 Multi-family Residential ("MF-29") to NR Neighborhood Retail ("NR") generally located northeast of the intersection of Roosevelt Street and Ross Parkway.

ORDINANCE NO. 48-819

m. 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.