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*A12-01 – Request by John E. Dugan Family Partnership, L.P. to annex lands generally located at the northwest corner of 31st Street South and Maize Road. (District IV)

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FINAL
CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. January 10, 2012

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 December 20, 2011

AWARDS AND PROCLAMATIONS

-- Proclamations:

Energy and Sustainability Week
Prostate Cancer Awareness Day

-- Service Awards:

John Loux
Bradley Bryant
Bob Anderson
Maurice Terrebone
Shari Shockey
Phil Murphy
Alice Lewman
Mark Keck
Cheryl Holloway
Pastor Gerry Benton
Michael Harlow
Fred Riffel Jr.
Paula Carter

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. Kevin Fish and Arc - Thank you to the City for their support of youth with intellectual and developmental disabilities.

II. CONSENT AGENDAS (ITEMS 1 THROUGH 29)

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

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

COUNCIL BUSINESS

III. UNFINISHED COUNCIL BUSINESS

1. Repair or Removal of Dangerous and Unsafe Structures, 1821 East 23rd Street North. (District I)

   RECOMMENDED ACTION: Take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of January 10, 2012; (2) the structures are maintained secure as of January 10, 2012 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of January 10, 2012, and is so maintained during renovation.

IV. NEW COUNCIL BUSINESS

1. Resolution Considering the Establishment of the K-96 Greenwich STAR Bond District. (District II)

   RECOMMENDED ACTION: Adopt the resolution which provides notice of consideration for the establishment of the K-96 Greenwich STAR bond district and sets a public hearing for February 14, 2012.

2. Amendment to Section 11.28.040 Relating to Turning Movements and Required Signals.

   RECOMMENDED ACTION: Approve the first reading of the Ordinance.

3. 37th Street North Improvement, between Broadway and Hydraulic. (District VI)

   RECOMMENDED ACTION: Approve the design concept, approve the budget for right-of-way, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

4. HUD Consolidated Plan/Fourth Program Year Action Plan Preliminary Funding Recommendations.

   RECOMMENDED ACTION: Close the public hearing and approve funding recommendations of the 2012-2013 Fourth Program Year Action Plan.

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

5. Repair or Removal of Dangerous and Unsafe Structures. (Districts I, IV and VI)

Property Address	Council District
a. 722 South Estelle	I
b. 1780 South Seneca Court	IV
c. 2704 North Wellington	VI

RECOMMENDED ACTION: 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 January 10, 2012; (2) the structures have been secured as of January 10, 2012, and will continue to be kept secured; and (3) the premises are mowed and free of debris as of January 10, 2012, and will be so maintained during renovation.

(10:00 a.m. or soon thereafter)

6. General Obligation Bond and Note Sale.

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

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

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

V. NON-CONSENT PLANNING AGENDA

1. CUP2011-00031 – Amendment #1 to DP-197 the Greystone Community Unit Plan located on property generally located southeast of the intersection of West 21st Street North and North Maize Road. (District V)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve Amendment #1 to DP-197 subject to the recommended conditions, based upon the findings found in the staff report (simple majority vote required); 2) deny the request by making alternate findings (two-thirds majority vote required) or 3) return the application to the MAPC for further consideration (simple majority vote required).

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VII. NON-CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

None

IX. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 29)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated January 9, 2012.

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

2. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2012	(Consumption on Premises)
Kurt Schmidt	Picasso's Pizzeria, Inc**	621 West Douglas
Jasral Mann	Phillips 66***	2950 North Ohio
Cheryl Gehlen	Annex Lounge*	6305 East Harry
Enriqueta Garcia	Tacos Raymundo**	1716 West 21st North
J Larry Fugate	Pizza Hut**	333 east 47th Street South
Dicie Nicklaus	Innovative Golf**	311 South Greenwich

Renewal	2012	(Consumption off Premises)
Kenny Nguyen	PP- Station	2601 North Broadway

*Consumption/Tavern less than 50% of gross revenues from sale of food.
**General/Restaurant 50% or more gross revenue from sale of food.
***Consumption/Retailer grocery stores, convenience stores etc.

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

3. Preliminary Estimates: (See Attached)

   RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:
   a. Petition for Sanitary Sewer in Travel Air City Addition, north of Central, east of Webb. (District II)

   RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Agreements/Contracts:
   a. Relocation of Kansas Gas Service Pipe Line, Kellogg/151st Street West Intersection. (District V)
   b. Kellogg/Greenwich Interchange. (District II)
   c. Kellogg/I-235 Interchange. (Districts IV and V)
   d. Kellogg/Kansas Turnpike/Webb Interchanges. (District II)
   e. Childhood Lead Poisoning Prevention Program Agreement.
   f. Pressure and Chlorine Booster Station - Rural Water District No. 1– Supplemental Agreement No. 1 for Professional Services. (District II)
   g. Encroachment Agreement with Southern Star Central Gas Pipeline, Inc. for Traffic Signalization Improvements at 39th Street North and Webb.(District II)

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

6. Design Services Agreement:
   a. Relocation of Kansas Gas Transfer Station, Kellogg/151st Street West Intersection. (District V)

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

7. Change Orders:
   a. Change Order No. 2 - 2011 Contract Street Maintenance Project.(Districts II and III)
   b. Change Order No. 3- McCormick Water Main Replacement. (District IV)

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

8. Property Acquisitions:
   a. Partial Acquisition of 3737 North Seneca for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project. (District VI)
   b. Partial Acquisition of 5217 West 13th Street North for the I-235 Floodway Crossing/13th Street Interchange Project. (Districts V and VI)
   c. Partial Acquisition of 1058 North Hoover for the I-235 Floodway Crossing/13th Street Interchange Project. (Districts V and VI)
   d. Partial Acquisition of 522 East 49th Street North for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project. (County)

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

9. Minutes of Advisory Boards/Commissions

Wichita Transit Advisory Board, December 9, 2011
Stormwater Advisory Board, November 30, 2011
Wichita Public Library, November 15, 2011
Board of Electrical Appeals, November 8, 2011
Design Council, November 16, 2011
Police and Fire Retirement System, November 16, 2011
Wichita Employees' Retirement System, November 16, 2011

RECOMMENDED ACTION: Receive and file.

10. Request for Granting of Waterline Easement on IRB Property, Mid-Continent Instruments, Inc. (District II)

    RECOMMENDED ACTION: Approve the Resolution granting the Waterline Easement and authorize the necessary signatures.

11. Fiber optic connectivity to the Water Center and Patrol South Police Substation.

    RECOMMENDED ACTION: Approve the funding and the contract for the project.

12. Surplus of City-owned Property at 1515, 1503, 1457, and 1405 South 119th Street West. (District V)

    RECOMMENDED ACTION: Declare the property surplus and approve the marketing strategy described.

13. Proposed 2012 Contracted Street Maintenance Program.

    RECOMMENDED ACTION: Approve the 2012 Contracted Maintenance Program.

14. Acquisition by Eminent Domain of Tracts Required for the I-235 Floodway Crossing/13th Street Interchange Project. (Districts V and VI)

    RECOMMENDED ACTION: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisitions.

15. Request for Proposals on Conducting a City-wide Street Condition Ratings Inventory and Developing a Pavement Life Cycle Cost Analysis Model.

    RECOMMENDED ACTION: Approve the development and issuance of the RFP's and direct staff to return to the City Council with a proposed agreement to retain the recommended consultant.

16. Contract Amendment, The Salvation Army.

    RECOMMENDED ACTION: Approve the contract amendment and authorize the necessary signatures.

17. 2012 Senior Wednesday Program - WATER Center. (District III)

    RECOMMENDED ACTION: Approve receipt of the grant award and authorize the necessary signatures.

18. Second Reading Ordinances: (First Read December 20, 2011)
    List of Second Reading Ordinances. (See Attached)

    RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

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

19. *ZON2011-00034 – City zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3"); generally located north of 31st Street South, on the east side of Oliver Avenue. (District III)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

20. *ZON2011-00035 – City zone change from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC") generally located south of I-235 and west of north Broadway. (District VI)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change and protective overlay and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

21. *ZON2011-00036 – City zone change from GC General Commercial ("GC") to SF-5 Single-family Residential ("SF-5") generally located northwest of the intersection of East 11the Street and North Ohio Street. (District I)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

22. *ZON2011-00037 Associated with CUP2011-00043 –City zone change from LC Limited Commercial to GC General Commercial ("GC") to allow for the expansion of manufacturing uses on Parcels 14 through 17 generally located south of University Drive and east of Emerson Street. (District V)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

23. *CUP2011-00042 and ZON2011–00038, Creation the Fox Ridge Plaza Commercial Community Unit Plan DP-330 and zone change from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") on property generally located 1,900 feet south of 37th Street North, east of North Maize Road. (District V)

    RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change and CUP subject to the condition of platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council (simple majority vote required).

24. *SUB2011-00038 -- Plat of Angel Fire 2nd Addition located north of 47th Street South, east of West Street. (District IV)

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

25. *DED2011-00008 – Dedication of utility easement located south of Maple and west of Meridian. (District IV)

    RECOMMENDED ACTION: Accept the Dedication.

26. *VAC2011-00017 - Request to vacate a portion of a platted public street right-of-way and a portion of a platted setback; generally located between Oliver and Elpyco Avenues and Mount Vernon Road and Funston Street. (District III)

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

27. *A12-01 – Request by John E. Dugan Family Partnership, L.P. to annex lands generally located at the northwest corner of 31st Street South and Maize Road. (District IV)

    RECOMMENDED ACTION: Approve the annexation request, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

28. *A12-02 - Request by John E. Dugan Family Partnership, L.P.; John E. and Marilyn K. Dugan; and Christopher Dugan to annex lands generally located at the southeast corner of 31st Street South and 119th Street West. (District IV)

    RECOMMENDED ACTION: Approve the annexation request, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

II. CONSENT HOUSING AGENDA ITEMS

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

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

None

II. CONSENT AIRPORT AGENDA ITEMS

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

29. *Host International - Supplemental Agreement No. 6 - Restaurant and Concession Operations at Wichita Mid-Continent Airport.

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

Agenda Item No. III-1

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
1821 East 23rd Street North (District I)

INITIATED BY: Office of Central Inspection

AGENDA: Unfinished Business

Recommendations: Take appropriate action based on testimony received during the review hearing to consider condemnation and removal of a dangerous and unsafe structure at 1821 East 21st Street North.

Background: On November 15, 2011, the City Council conducted a public hearing to consider condemnation of the dangerous and unsafe structure at 1821 East 21st Street North.

Vice Mayor Williams contacted Central Inspection staff on November 14, 2011, and asked that staff request a 45 day deferral of this item to give her an opportunity to talk to the property owner and to be present for the hearing.

At their meeting on November 15, 2011, the City Council voted to defer the City Council action for at least 45 days.

Analysis: On December 21, 2011, Central Inspection staff inspected the property and noted that some repairs had been made. There were significant corrections required to the wall framing, and no work had started on the roof.

The structure is secured. There is bulky waste and building materials on the premises.

As of December 27, 2011, the 2009, 2010 and 2011 taxes were delinquent in the amount of $751.75, including interest. There are no special assessments.

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

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

Legal Considerations: The owner and owner's representative has been informed of the date and time of the hearing.

Recommendations/Actions: It is recommended that the City Council take appropriate action based on the testimony received at the hearing. Any extension of time granted to repair the structure should be conditioned on the following: (1) taxes and specials are paid as of January 10, 2012; (2) the structures are maintained secure as of January 10, 2012 and is kept secured during renovation; and (3) the premise is kept clean and free of debris as of January 10, 2012, and is 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 resolution published once in the official City paper and advise the owners of these findings.

Attachments: None

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Resolution Considering the Establishment of the K-96 Greenwich STAR Bond District (District II)

INITIATED BY: Urban Development Office

AGENDA: New Business

Recommendation: Adopt the resolution setting a public hearing for consideration of the establishment of the K-96 Greenwich STAR Bond District.

Background: Starting with the Kansas Speedway project in Wyandotte County, the State of Kansas has approved several "Sales Tax and Revenue" (STAR) bonds for special economic development projects located throughout the state. In 2007, STAR bonds were approved for the River District Project in downtown Wichita in the amount of $13,000,000 to finance the Keeper of the Plains Plaza and bridges, riverbank improvements on the east bank of the Arkansas River between Douglas and First Street, and the Waltzing Waters fountain in the WaterWalk project.

STAR bond financing allows the Kansas Department of Revenue to measure and capture the incremental increase in state and local sales tax revenue collected within an approved STAR bond district and remit a portion of said revenue to the city or county in which the STAR bond district is located, to pay certain eligible costs associated with an approved STAR bond project, including the principal and interest on STAR bonds.

A development group, GoodSports Enterprises, LLC, is planning a major multi-sport athletic complex and retail development for the area northeast and south of K-96, along Greenwich Road and has requested the use of STAR bonds to finance eligible costs associated with the project. The first step in the legal process for authorizing STAR bond financing is the adoption of a resolution setting a public hearing to consider the establishment of a STAR bond district.

Analysis: The STAR bond authorization process is divided into two major components: the first is the establishment of the STAR bond district; the second is the approval of the STAR bond project plan. To establish a STAR bond district, the City Council must first adopt a resolution which sets a public hearing on the matter, not less than 30 days or more than 70 days following the adoption of the resolution. The resolution is then mailed to all owners and occupants of property located within the proposed STAR bond district, and to the Board of County Commissioners (BOCC) and the Board(s) of Education (BOE). The resolution is also published in the Wichita Eagle. Prior to the public hearing, the resolution and supporting information is forwarded to the Kansas Secretary of Commerce for the issuance of a "determination letter" which states that the area is qualified for STAR bond financing. Following the public hearing and receipt of the determination letter, the City Council may adopt an ordinance establishing the STAR bond district.

If establishment of the STAR bond district has an adverse impact on property taxes, it can be vetoed by the BOCC or the BOE.

The second step in the overall process is the adoption of a detailed STAR bond project plan and feasibility study, which is prepared in concert with the Developer and submitted to the MAPC for a finding that the plan is consistent with the regional Comprehensive Plan. After MAPC approval, the City Council may set a public hearing and adopt the STAR bond project plan by ordinance, following the same process used to establish the STAR bond district. The STAR bond plan and ordinance is then submitted to the Secretary of Commerce for final approval of the STAR bond project. After the Secretary's approval is received, the project may commence and STAR bonds may be issued up to the amount specified by the Secretary of Commerce.

The attached resolution sets February 14, 2012 as the date for the public hearing on establishing the STAR bond district. The resolution includes as exhibits a map showing the proposed boundaries of the STAR bond area and a "district plan" that legally describes the area, identifies potential STAR bond project areas and provides a general description of the proposed development projects in the district.

The proposed K-96 Greenwich STAR Bond District includes approximately 370 acres of property northeast of Greenwich Road at K-97 and south of K-96 along both sides of Greenwich, to 21st Street North; the district also includes approximately 60 acres of property at the southeast corner of 21st Street North and Greenwich Road.

To be determined to be an eligible area for STAR bond financing, under state law, the area must either contain an historic theater, an auto race track facility, a major motorsports complex, a river walk canal facility, a major multi-sport athletic complex or be a major commercial entertainment and tourism area. The K-96 Greenwich STAR Bond District is proposed to be established as a major multi-sport athletic complex. Guidance from the Kansas Department of Commerce states that a STAR bond project must be capable of being characterized as a statewide and regional attraction, containing unique features which will increase tourism, generate significant positive and diverse economic and fiscal impacts and be capable of sustainable development over time. The guidelines call for 20% of visitors from out of state and 30% from a distance greater than 100 miles. A preliminary feasibility study indicates that the proposed STAR bond project will satisfy these requirements.

GoodSports Enterprises, LLC has identified the project as a mixed use lifestyle center including a multi-sport athletic complex, destination hotels and a destination retail center that will be unique to the Wichita market. The development will offer numerous indoor sport courts, as well as outdoor athletic opportunities, and facilities for wrestling, archery and fencing, all designed to attract national youth competitions. Additional development will provide complementary uses including hotels and destination retail.

STAR bond financing will be used to pay for the construction of the multi-sport athletic complex, land acquisition, site preparation, utilities extensions, street construction, parking facilities, lighting and landscaping. In addition, STAR bond financing will pay for a portion of the cost of reconstructing the freeway interchange at K-96 and Greenwich Road to provide access in all directions. The existing interchange provides access to Greenwich Road only from eastbound K-96 traffic and access to K-96 only for westbound traffic.

Conceptually, the proposed STAR Bond Project will be developed in multiple phases. As currently conceived, the first phase includes the multi-sport athletic complex and a 115-room luxury hotel, national retail stores and pad sites, as well as the reconstruction of the K-96 interchange. The second phase is planned to include a hotel with an indoor water park, plus big box retail and additional pad sites. The final phase is designed for medical office space, two super regional retailers and other attractions.

Financial Considerations: The publication and mailing costs associated with establishing the STAR bond district will be paid from the Economic Development Fund and later will be transferred to the STAR bond project account if the STAR bond project is approved. Any STAR bonds issued for this project will be special obligation bonds of the City, payable solely from the incremental sales tax revenue remitted by the Kansas Department of Revenue for payment of the bonds. All eligible costs of the City relating to the project will be reimbursed with STAR bond proceeds.

Goal Impact: The City Council's goals for Economic Vitality and Affordable Living and Quality of Life are advanced through the use of STAR bonds to partner with developers to create a major commercial, entertainment and tourism site that will bring significant economic value to the City, enhance the satisfaction of residents and improve Wichita's competitive position as a desirable place to live and work. The goal of Efficient Infrastructure is served by the completion of the K-96 and Greenwich Road freeway interchange.

Legal Considerations: The attached resolution setting a public hearing on February 14, 2012 for consideration of the establishment of the proposed STAR Bond Project District has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council adopt the resolution which provides notice of consideration for the establishment of the K-96 Greenwich STAR bond district and sets a public hearing for February 14, 2012.

Attachments: Resolution with Exhibits

OCA

Resolution No. 12-006

A RESOLUTION STATING THE CITY OF WICHITA IS CONSIDERING THE ESTABLISHMENT OF A STAR BOND PROJECT DISTRICT FOR THE K-96 GREENWICH STAR BOND PROJECT DISTRICT UNDER AUTHORITY OF K.S.A. 12-17, 160 ET SEQ.

WHEREAS, the provisions of K.S.A. 12-17, 165, as amended, set forth the procedure for the establishment of a STAR bond project district for certain purposes in eligible areas; and

WHEREAS, the City of Wichita (the "City") is considering the establishment of a STAR bond project district to be known as the "K-96 Greenwich Star Bond Project District" to promote the general and economic welfare of the City as a major commercial entertainment and tourism area including a major multi-sport athletic complex;

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

Section 1. That the City is considering the establishment of a STAR bond project district to be known as the K-96 Greenwich STAR Bond Project District.

Section 2. That the City will hold a public hearing to consider the establishment of such STAR bond project district on February 14, 2012, at 9:30 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 North Main Street, Wichita, Kansas.

Section 3. That a legal description of the proposed K-96 Greenwich STAR bond project district is set forth in **Exhibit A** attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed K-96 Greenwich STAR bond project district is attached hereto as **Exhibit B** and incorporated herein by reference.

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

Section 5. That a description and map of the proposed STAR bond project district shall be available for inspection by the public in the City Clerk's Office, City Hall, 13th Floor, 455 North Main Street, Wichita, Kansas, from 8:00 a.m. until 5:00 p.m., Monday through Friday, from the 10th of January, 2012, until February 14, 2012.

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

Section 7. That a copy of this resolution shall be sent by certified mail, return receipt requested to the Sedgwick County Board of County Commissioners, and to the Board of Education of Unified School District Nos. 265 and 375. Copies of this resolution shall also be mailed by certified mail, return receipt requested, to each owner and occupant of land within the proposed STAR bond project district not more than ten (10) days following the date of the adoption of this resolution.

Section 8. That the proposed K-96 Greenwich STAR Bond Project District shall be submitted to the Secretary of Commerce of the State of Kansas for a determination that the proposed K-96 Greenwich STAR Bond Project District is an "eligible area" as defined by K.S.A. 12-17,162(f).

Section 9. That this resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the proposed STAR bond project district in sufficient detail to advise the reader of the particular land proposed to be included within the STAR bond project district shall be published with the resolution.

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas, this 10th day of January, 2012.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

Approved as to Form:

_____

Gary E. Rebenstorf, City Attorney

EXHIBIT "A"
STAR BOND DISTRICT
LEGAL DESCRIPTION

A tract of land situated in the West One-half of Section 3, the East One-half of Section 4 and the Northwest Quarter of Section 10, all in Township 27 South, Range 2 East of the Sixth Principal Meridian in Sedgwick County, Kansas, being more particularly described as follows:

Note: The basis of the bearings in this description is N 89° 16' 46" E being the South line of the Southwest Quarter of Section 3 Township 26 South Range 2 East and as shown on Cross Pointe 2ND a recorded subdivision in the Sedgwick County Register of Deeds office.

Beginning at the Southeast corner of said Section 4, said corner being common with the Southwest corner of said Section 3 and the Northwest corner of said Section 10 and at the intersection of the centerlines for 21st Street North and Greenwich Road;

Thence South 89° 01' 03" West 1550.01 feet, on the south line of the Southeast Quarter of said Section 4 and generally West on the centerline of 21st Street North to a point 60.0 feet south of the south west corner of Lot 12 on Regency Lakes Commercial 2ND Addition a recorded subdivision in the Sedgwick County Register of Deeds office;

Thence North 00° 42' 44" West 2645.22 feet on the west line of said Regency Lakes Commercial 2ND Addition subdivision and a continuation of that line to a point on the East/West center line of said Section 4, the southern most line of Regency Park Addition a recorded subdivision in the Sedgwick County Register of Deeds office and the North right of way line of Highway K-96;

Thence North 89° 02' 53" East 381.86 feet, on said East/West center line of said Section 4, the southern most line of said Regency Park Addition, and the north right of way line of Highway K-96;

Thence North 54" 11' 18" East 614.48 feet on said southern most line of said Regency Park Addition and the north right of way line of Highway K-96;

Thence North 74° 45' 12" East 316.18 feet on said southern most line of said Regency Park Addition and the north right of way line of Highway K-96;

Thence South 89° 59' 33" East 360.23 feet on said southern most line of said Regency Park Addition and the north right of way line of Highway K-96 and extending to a point on the East line of said Section 4, said line being common with the West line of said Section 3 and the centerline of Greenwich Road;

Thence North 00° 32' 29" West 2257.64 feet on said common line and said centerline of Greenwich Road to the Northwest corner of the Northwest Quarter of said Section 3;

Thence North 89°16'14" East 1030.00 feet on the north line of the Northwest Quarter of said Section 3 to a point being 60.00 feet north of the northwest corner of Block A on Stoney Pointe Addition a recorded subdivision in the Sedgwick County Register of Deeds office;

Thence South 00°32'29" East 1023.95 feet on the west line of said Block A to the south west corner of Reserve D on said Stoney Pointe Addition;

Thence South 89°14'32" East 250.00 feet on the south line of said Reserve D and a point being 50.00 feet south of the northwest corner of Lot 2 on said Stoney Pointe Addition;

Thence South 00°32’29” East 320.00 feet on the west line of said Lot 2 to a point on the south right of way line of 27th Street;

Thence North 89° 14’ 32” East 1366.38 feet, on the South right of way line of 27th Street to a point on the North/South center line of said Section 3, said point being 56.64 feet south of the Northwest corner of Lot 13, Block 3, of said Greenwich Business Center Addition;

Thence South 00° 35’ 35” East 1330.80 feet, on said North/South center line, to a point being common to the Center Corner of said Section 3, the south west corner of Reserve G on said Greenwich Business Center Addition and the north west corner of The Fairmont a recorded subdivision in the Sedgwick County Register of Deeds office;

Thence South 00° 35’ 48” East 2651.74 feet, on said North/South center line to a point being the South Quarter Corner of said Section 3, the North Quarter Corner of said Section 10 and on the centerline of 21st Street North;

Thence South 01° 00’ 22” East 1862.90 feet, on the North/South center line of said Section 10 to a point 417.59 feet east of the south east corner of Reserve C on Cross Pointe 2ND a recorded subdivision in the Sedgwick County Register of Deeds office;

Thence South 89° 16’ 20” West 1061.05 feet on the south line of said Cross Pointe 2ND to the south west corner of Reserve C on said subdivision;

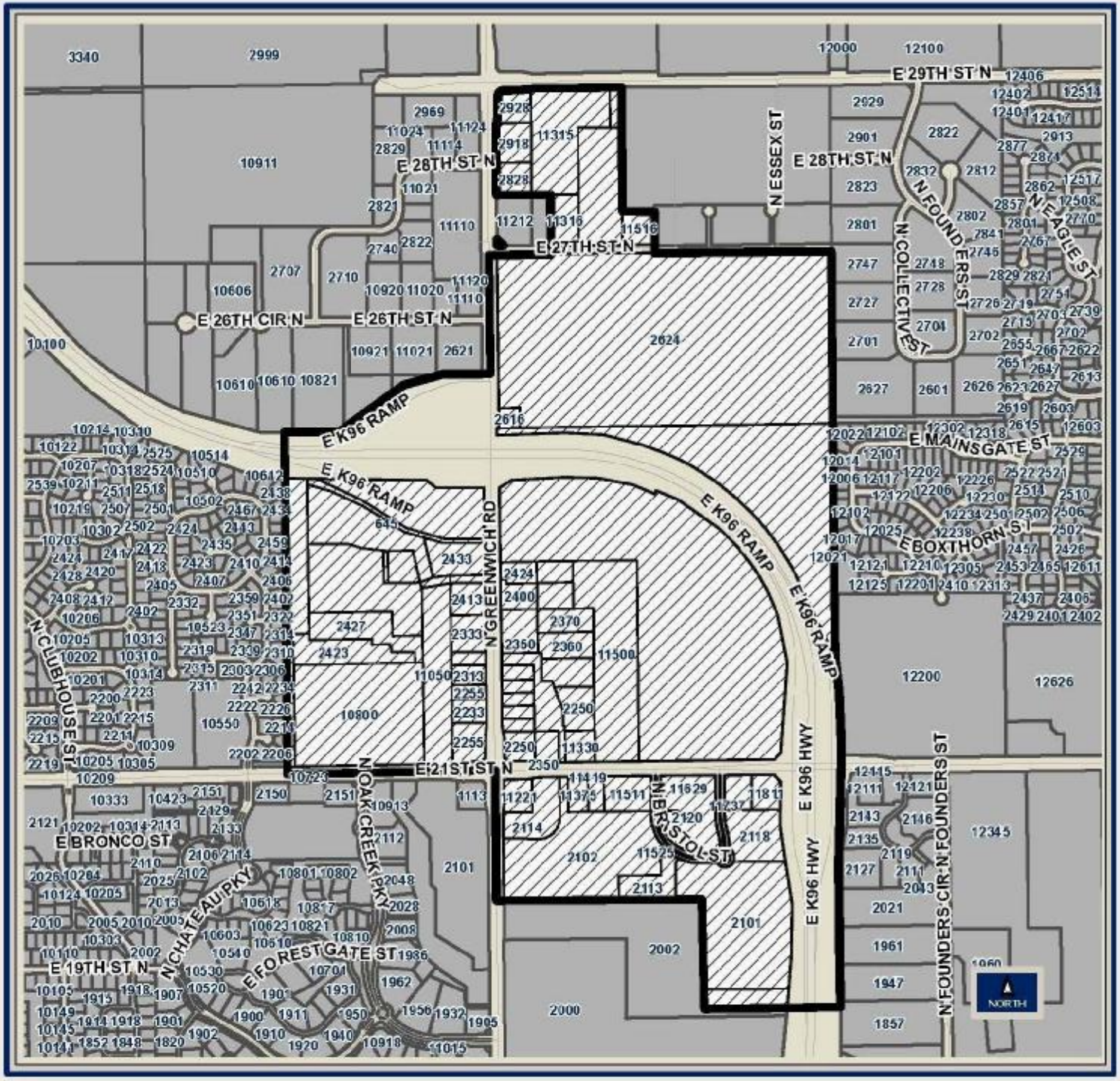
Thence North 00° 43’ 40” West 848.92 feet on the westerly line of said Reserve C and continuing on that line being a west line of Lot 7 on said Cross Pointe 2ND;

Thence South 89° 17’ 02” West 1589.13 feet, to a point being on the West line of said Section 10, the centerline of Greenwich Road and 60.0 feet west of the south west corner of Lo1 Block 1 on said Cross Pointe 2ND;

Thence North 00° 46’ 07” West 1014.01 feet, on said West line and the centerline of Greenwich Road, to the point of beginning.

Excepting all of Lot 4 and the west 145.00 feet of Lot 5 both in Block 1 of said Greenwich Business Center Addition;

Subject to survey and all easements and restriction of record.



Proposed K-96 Greenwich STAR Bond Project District

City of Wichita, Kansas

K-96 Greenwich STAR Bond District & Project Area

Property Parcels inside K-96 Greenwich STAR Bond District & Project Area

Property Parcels outside K-96 Greenwich STAR Bond District & Project Area

Software: ArcGIS 10.1
Hardware: Dell Xeon
Printer: HP 5300 Plotter

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

Road Centerlines provided by City of Wichita

Date Saved: 1/6/2012 9:24:59 AM
K:\giswork\Projects\NRA\K96_Greenwich\Str_v10.1.mxd

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

CITY OF WICHITA

GIS

EXHIBIT D

EXHIBIT "C"

STAR BOND PROJECT DISTRICT PLAN
FOR THE DEVELOPMENT OF THE
K-96 GREENWICH STAR BOND DISTRICT

January 10, 2012

SECTION 1: PURPOSE

A STAR bond project district plan is required for inclusion in the establishment of a STAR bond district under K.S.A. 12-17,165. The district plan is a preliminary plan that identifies proposed STAR bond 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 SALES TAX AND REVENUE BOND INCOME

STAR bond financing allows the Kansas Department of Revenue to measure and capture the incremental increase in state and local sales tax revenue collected within an approved STAR bond district and remit a portion of said revenue to the city or county in which the STAR bond district is located, to pay the principal and interest on STAR bonds issued to finance certain eligible costs associated with an approved STAR bond project. Projects financed through STAR bond financing include major commercial entertainment and tourism developments that create a significant "increment" in state and local sales tax income. The increment is determined by subtracting the total amount of sales tax revenue collected within the boundaries of a STAR bond project district during the 12 months preceding the establishment of the STAR bond project district from the total sales tax revenue collected in the district in each 12 month period following the approval of the STAR bond project during the term of the STAR bond project. The portion of the sales tax increment paid to the City is net of a small administrative fee assessed by the Department of Revenue.

In Wichita, the one-cent local option sales tax is assessed by Sedgwick County and a major portion of the revenue is distributed by the County to the City of Wichita, based on population and other fiscal considerations. By City ordinance, 50% the local sales tax revenue received by the City is dedicated to paying for streets, roads and bridges and is pledged to the repayment of City bonds issued for that purpose. The other 50% is dedicated to property tax abatement, and only that portion of the local sales tax increment collected in the STAR bond project district can be used to pay the principal and interest on STAR bonds.

SECTION 3: BUILDINGS AND FACILITIES

The proposed STAR bond project district, whose boundaries are set forth in Exhibits "A" and "B" attached hereto, is an area that meets the criteria for designation as a "major commercial entertainment and tourism area, including a major multi-sport athletic complex" as defined by state law governing the establishment and financing of STAR bond project districts. Property located within a major commercial entertainment and tourism area is legally eligible for establishment of a STAR bond project district.

The buildings and facilities to be constructed or improved in the STAR Bond project district may

be described in a general manner as a mixed-use development consisting of some or all of the following uses: major multi-sport athletic complex; destination attractions; retail uses; restaurant uses; other general commercial development; hotel uses; a public highway interchange; and associated public and private infrastructure.

SECTION 4: PROJECT AREAS AND ELIGIBLE PROJECT COSTS

It is anticipated that multiple STAR Bond Project Areas will be determined for the district under the STAR Bond project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any funds to be financed with STAR bonds.

STAR bond 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 on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas.

SECTION 5: CONCLUSION

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

STAR bond financing does not impose any additional taxes on sales or on property located within the STAR bond project district.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Amendment to Section 11.28.040 Relating to Turning Movements and Required Signals

INITIATED BY: Law

AGENDA: New Business

Recommendation: Approve first reading of the ordinance.

Background: Currently, the City's Ordinances regarding lane changes and the use of turn signals differs from state statutes regulating these traffic infractions. This variance has resulted in inconsistent enforcement by law enforcement personnel.

Analysis: The proposed amendment brings the City's ordinance into compliance with State law regarding driver's turning movements and the required signals.

Financial Considerations: None.

Goal Impact: This amendment furthers the goal of Safe and Secure Neighborhoods.

Legal Considerations: The proposed amendment has been prepared and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the first reading of the ordinance as submitted be approved.

Attachment: Ordinances

First Published in The Wichita Eagle on _____

DELINEATED 11/21/2011

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTION 11.28.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TURNING MOVEMENTS AND REQUIRED SIGNALS AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION1. Section 11.28.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"~~**Driver's**~~ **Turning movements and required signals.** (a) No person shall turn a vehicle ~~at an intersection unless the vehicle is in proper position upon the roadway as required in Section 11.28.030, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course~~ or move right or left upon a ~~highway~~ roadway unless and until such movement can be made with reasonable safety, ~~and no person shall so turn any vehicle~~ nor without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the

driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) ~~Any~~ The signals ~~lamps or devices authorized or~~ required on vehicles by Section 11.60.150 of this title, ~~shall be used only to indicate an intention to turn, change lanes, or start from a parked position and~~ shall not be flashed on one side only on a ~~parked or~~ disabled vehicle, ~~or~~ flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section."

SECTION 2. The original of Section 11.28.040 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 _____, 2011.

_____
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 January 27, 2012 083303

11/21/2011

ORDINANCE NO. 49-184

AN ORDINANCE AMENDING SECTION 11.28.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO TURNING MOVEMENTS AND REQUIRED SIGNALS AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION1. Section 11.28.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"**Turning movements and required signals.** (a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals required on vehicles by Section 11.60.150 of this title, shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor

be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section."

SECTION 2. The original of Section 11.28.040 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 24th day of January, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

Agenda Item No. IV-3

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: 37th Street North Improvement, between Broadway and Hydraulic (District VI)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the design concept and budget for right-of-way.

Background: The Capital Improvement Program (CIP) adopted by the City Council includes funding to improve 37th Street North, between Broadway and Hydraulic. The District VI Advisory Board held a neighborhood hearing for the project on December 5, 2011. The Board voted 6-0 to recommend approval of the project. An open house was held prior to the District Advisory Board meeting to discuss the project with the neighborhood.

Analysis: The existing roadway is a two lane asphalt mat with drainage ditches. The proposed improvement will provide a three lane roadway with one through lane in each direction and a center two-way left turn lane. The intersection of 37th and Hydraulic will be improved to provide wider turning radius for trucks, and to include dedicated left turn lanes on 37th. Drainage improvements will be constructed including the addition of a large concrete drainage culvert in the west portion of the project. Construction is planned to begin in the spring of 2013 and be completed in late 2013. Traffic will be carried one-way east bound throughout construction.

Financial Consideration: On August 19, 2008, the City Council approved $263,000 for the design of this project. Staff is requesting that Council authorize a $250,000 budget for right-of-way acquisition, resulting in an approved budget of $513,000. The funding source is General Obligation bonds. The right-of-way cost is included in the Adopted 2009-2018 CIP. The project will be returned to the City Council at a future date for approval of construction funding.

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

Legal Considerations: The Law Department has approved the amending ordinance as to legal form.

Recommendation/Action: It is recommended that the City Council approve the design concept, approve the budget for right-of-way, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet and amending ordinance.

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 & Utilities	Eng & Arch	12/8/2012	37th, Broadway-Hydraulic

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS		2012	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER*	TOTAL
Right of Way & Design	$513,000			$513,000
Paving, grading & const.				
Bridge				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals & Turn Lanes				
Totals	$513,000			$513,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472 $1692

13. Recommendation: Approve the design concept, approve the budget and place the amending ordinance on 1st reading

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

235
37th St.
Broadway
Ohio St.
135
Hydraulic
29th St.
N
CITY OF WICHITA
PEC
0 100 200 400 600 800
Feet

132019

Published in the Wichita Eagle on January 27, 2012

ORDINANCE NO. 49-185

AN ORDINANCE AMENDING ORDINANCE NO. **47-976** OF THE CITY OF WICHITA, KANSAS DECLARING **37TH ST. NORTH, BETWEEN BROADWAY AND HYDRAULIC (472-84692)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

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

SECTION 1. SECTION 2 of Ordinance **47-976** 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 **37th St. North, between Broadway and Hydraulic (472-84692)** as a main trafficway in the following particulars:

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

SECTION 2. SECTION 3 of Ordinance No. **47-976** is hereby amended to read as follows:

"SECTION 3. The cost of the above described improvements is estimated to be **Five Hundred Thirteen Thousand Dollars ($513,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689."

SECTION 3. The original SECTIONS 2 and 3 of Ordinance No. 47-976 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 24th day of January, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: HUD Consolidated Plan/Fourth Program Year Action Plan Preliminary Funding Recommendations

INITIATED BY: Housing and Community Services Department

AGENDA: New Business

Recommendation: Close the public hearing and approve the preliminary funding recommendations for the 2012-2013 Fourth Program Year Action Plan.

Background: The U.S. Department of Housing and Urban Development (HUD) provides annual funding for programs that serve or benefit low to moderate-income persons. This funding is part of the HUD Consolidated Plan process that requires the City of Wichita to submit annual amendments to the Five-Year Consolidated Plan, outlining specific activities to be funded through the Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Shelter Grant (ESG) programs for each of the five years covered in the plan. ESG funds will be known as Emergency Solutions Grant and will be administered by HUD differently. Regulations have not been finalized for administration of the new ESG program.

Analysis: Each year City staff develops funding estimates and makes recommendations for funding categories to the City Council. Based on preliminary information received from HUD, City staff recommends using the following levels of funding as planning targets for FY 2012-2013: CDBG - $2,570,958 and HOME - $1,214,045. The FY 2011-2012 allocations were $2,579,615 (CDBG) and $1,605,229 (HOME).

HUD places a high value on public input into annual plans. Staff solicited such input for the 2012-13 program year through District Advisory Board (DAB) meetings in all Districts, and a community priority survey which was distributed throughout the community and available online. A total of 240 survey responses were received prior to the deadline. The community was asked to rank each of eight priority areas which are eligible to receive federal funding. The top three spending priorities identified were (1) public services, (2) housing, and (3) community development. The feedback is listed below:

- The community was asked to rank a variety of individual activities which are eligible to receive funding within each priority area. The top three activities identified in each area were
    - Public Services – (1) Crime prevention, (2) job training, (3) youth recreation and enrichment
    - Housing – (1) Residential home repair programs, (2) homeowner rehabilitation assistance, (3) homebuyer assistance programs
    - Community Development – (1) Neighborhood clean ups, (2) neighborhood revitalization activities, (3) Neighborhood inspection/code enforcement

Based on these survey results, preliminary funding recommendations have been developed. These and all other preliminary funding recommendations are presented in the attached spreadsheet and narrative summary. The recommendations meet all regulatory funding caps and the proposed activities are eligible under the applicable regulations.

In addition to the DAB presentations and feedback, public input into the annual funding plan is also solicited during a minimum of three City Council public hearings and an official comment period. This is the first such hearing.

Following City Council approval and/or modification of the recommended preliminary allocation categories and amounts, applications and Requests for Proposals will be widely distributed to agencies and other interested parties to solicit providers for the designated services. The Council- approved Grants Review Committee (GRC) will review the responses and make recommendations to the City Manager. Prior to making final recommendations the GRC will hold a public hearing during which proposers who respond with applications and proposals in response to the City's solicitations will make presentations and respond to GRC questions. The public will be invited to these hearings as well, to listen to the presentations and provide feedback on them.

Financial Considerations: HOME funds require a 25% non-federal match, and the Housing and Community Services meets this requirement through creative partnerships with community agencies and therefore General Fund match support has not been required.

If necessary, staff will adjust all funding categories and amounts following formal notification by HUD. All staff modifications will be presented to the City Council for final approval after proposals and applications have been received and reviewed.

Goal Impact: The HUD Consolidated Plan Process supports the Dynamic Core Area and Vibrant Neighborhoods, Economic Vitality and Affordable Living and Quality of Life goals.

Legal Considerations: The Law Department has confirmed that all proposed Council actions and program activities are consistent with federal regulations and requirements established by the U.S. Department of Housing and Urban Development.

Recommendations/Actions: It is recommended that the City Council close the public hearing and approve funding recommendations for the 2012-13 Fourth Program Year Action Plan.

Attachments: 2012-13 Fourth Program Year Allocation Spreadsheet

2012-2013
Community Development Block Grant and HOME Investment Partnerships Program
Preliminary Funding Recommendations Based on Citizen Survey Results

Citizens were asked to rank programs eligible for CDBG and HOME funding, by responding to a survey in December, 2011. The survey was presented and distributed at District Advisory Board meetings. It was also promoted on City Channel 7 and in the Wichita Eagle. Surveys could be completed in hard copy or online. Although the window was short, 240 persons responded to the survey and the results are listed below.

There were two parts to the survey: 1) respondents were asked to rank each of the nine major funding categories in priority order; and 2) they were asked to rank programs within each category in priority order.

Part 1. General Category Ranking

1. Public Services
2. Housing
3. Community Development
4. Infrastructure
5. Economic Development
6. Public Facilities
7. Homeless Services
8. Historic Preservation
9. Other

Staff recommendations for general allocations will focus on the top three categories, due to limited funding available. However the other categories will be considered for funding opportunities which may arise in the future.

Part 2. Program ranking within the top three general categories:

Public Services

1. Crime prevention activities
2. Job training programs
3. Youth recreation and enrichment programs
4. Domestic violence shelters
5. Violence prevention/victim services
6. Homeless program support
7. Summer youth employment
8. Health-wellness programs
9. Child care services
10. Substance abuse treatment
11. Fair housing activities
12. Neighborhood association support
13. Neighborhood City Hall programs/services

Housing

1. Residential home repair programs
2. Homeowner rehabilitation assistance
3. Homebuyer assistance programs
4. Single-family construction assistance
5. Multi-family construction assistance

Community Development

1. Neighborhood clean ups
2. Neighborhood revitalization activities
3. Neighborhood inspection/code enforcement
4. Dangerous building demolition
5. Energy conservation activities

Following are preliminary staff funding recommendations which very closely follow citizen priority recommendations.

Public Services

Activity	Amount	Citizen Priority	Discussion
Youth Crime Prevention and Enrichment	$125,000 CDBG	1	This will fund initiatives which emphasize youth crime prevention programming and/or services for youth with disabilities. Crime prevention was a top citizen priority and staff will therefore seek proposals which include successful youth crime prevention models in such areas as academic skills enhancement, community awareness, gender-specific programming, leadership and youth development. In addition, citizen comments on the surveys stressed the need for services for persons with disabilities. Proposals will also be considered for enrichment programs which serve this population of youth.
Job Training	$50,000 CDBG	2	The recommendation is to designate these funds to enhance the Career Development Office Youth Employment and Training Program (YETP). The YETP provides life skills training and job search support, followed by paid work experience. The program pays half the minimum wage salary for students who are placed.
Youth Recreation and Enrichment		3	See above.
Women's Services	$275,000 CDBG	4, 5	This program is recommended at current year funding level. It will provide shelter and services for victims of domestic violence.

Housing First	$67,000 CDBG	6	This provides funding for one staff person who is responsible for this program which was identified by the City Council as a priority program following the work of the Task Force to End Chronic Homelessness. This allocation also includes operational costs such as computer equipment, etc. No other funds are available for this purpose.
Summer Youth Employment	$100,000 CDBG	7	Funding is designated for summer youth employment programs which will target crime prevention and/or job training.
Neighborhood Assistants	$330,000 CDBG	13	Although this was ranked low on the citizen surveys funding is recommended because the Neighborhood Assistants will be expected to implement the other priority programs identified by citizens.

Housing

Activity	Amount	Citizen Priority	Discussion
Residential Home Repair/Rehabilitation	$915,313 CDBG	1, 2	Staff recommends combining the top two priorities since they provide essentially the same service. Of the total amount, $549,000 will be used for repair costs and $366,313 will be designated for staff responsibilities associated with administering the program.
Homebuyer Assistance	$428,045 HOME	3	This allocation will provide up to 27 homebuyers with downpayment and/or closing cost assistance to purchase homes in the City's targeted areas ($427,641). All buyers must qualify for a standard mortgage and they must also meet income eligibility requirements. In addition, $121,404 will be allocated for staff and operational costs to administer the program.
Single Family Housing Construction for Low to Moderate Income Families		4	A total of $615,000 is recommended to fund construction of single family homes for low to moderate income buyers, in three programs as described below.
	$280,000 HOME	4	*Program #1: CHDO Set-Aside.* HUD requires that cities designate a minimum of 15% of HOME funds for Community Housing Development Organizations (CDDOs) to develop housing. This CHDO set-aside will produce 8 homes within the City's targeted areas. Staff will consider lease-to-own projects under this activity. All housing will be affordable for persons who meet low to moderate income guidelines.

	$235,000 HOME	4	*Program #2: Housing Development Loan Program.* These funds will be available to any developer (for profit or non-profit) to create housing affordable for persons who meet low to moderate income guidelines.
	$100,000 HOME	4	*Program #3: Boarded Up Structure.* The recommended funding will includes a revised boarded up home program which will be paired with CDBG demolition and perhaps with delinquent tax foreclosure properties. The goal is to create new affordable housing for persons who meet low to moderate income guidelines.

Community Development

Activity	Amount	Citizen Priority	Discussion
Neighborhood Clean Ups	$50,000 CDBG	1	This is recommended at the current CDBG funding level. Funds are also proposed in the Community Services Block Grant budget, to pay for dumpsters and tipping fees for neighborhood cleanups.
Neighborhood Revitalization Strategies	$100,000 CDBG $75,000 CDBG	2	Revitalization strategies will be realized in the following ways: $100,000 for demolition of dangerous buildings and $75,000 for infrastructure improvements (sidewalks or street improvements in areas designated as low-moderate income).
Neighborhood Inspection and Code Enforcement		3	Funds are not recommended for neighborhood inspection staff costs, due to limited funds.

Other required expenditures

Activity	Amount	Discussion
Program Management	$376,259	This will fund staff and overhead costs required to assure compliance with all federal funding requirements. (Includes full salaries for 2 positions and partial salaries of 3 positions with responsibility for managing CDBG-funded programs.) Responsibilities include budget management, contract monitoring, and mandatory reporting requirements.
Indirect Costs	$77,386	This expenditure is required by the City
Fair Housing	$5,000	These funds will be used to provide information regarding fair housing rules and regulations.
Planning	$25,000	HUD requires that all projects funded with CDBG and HOME funds, be subject to an environmental review. These funds will pay for those reviews which are conducted by a City employee in the Planning Department.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures (Districts I, IV and VI)

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolution.

Background: On November 22, 2011, a report was submitted with respect to the dangerous and unsafe conditions on the properties listed below. The City 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 January 10, 2012.

Analysis: On November 7, 2011, the Board of Code Standards and Appeals (BCSA) held hearings on the properties listed below

Property Address	Council District
a. 722 South Estelle	I
b. 1780 South Seneca Court	IV
c. 2704 North Wellington	VI

Detailed information/analyses 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 blighted and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The resolutions and notices of hearing was reviewed and approved as to form by the Law Department.

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 January 10, 2012; (2) the structures

have been secured as of January 10, 2012, and will continue to be kept secured; and (3) the premises are mowed and free of debris as of January 10, 2012, and will be so maintained during renovation.

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

Attachments: Memorandums to Council, case summaries, and resolutions.

DATE: December 28, 2011

CDM SUMMARY

COUNCIL DISTRICT # I

ADDRESS: 722 S. ESTELLE

LEGAL DESCRIPTION: LOT 18 AND THE NORTH HALF OF LOT 20, ON AVENUE J, NOW ESTELLE AVENUE, IN SECOND SUNNY-SIDE ADDITION TO THE CITY OF WICHITA, IN SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A two story frame dwelling about 48 x 24 feet in size. Vacant for at least 4 years, this structure has been damaged by fire. It has fire damaged, rotted and missing wood lap siding; fire damaged, sagging and badly worn composition roof, with missing shingles, holes; deteriorated front porch; and rotted rafters.

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: December 28, 2011

BCSA GROUP # 4

ADDRESS: 722 S. ESTELLE

ACTIVE FIELD FILE STARTED: May 6, 2002

NOTICE(S) ISSUED: Since May 6, 2002, several notice of improvements and numerous violation notices have been issued. In April 2005, an environmental case was initiated resulting in owner compliance. In February 2009, a neighborhood nuisance enforcement case was initiated resulting in owner compliance. In July 2011, a neighborhood nuisance enforcement case was initiated and remains open. Some repairs occurred between 2005 through 2008, resulting in four violations being cleared, all other violations remain unmet. It should be noted that uniform criminal complaints have been issued regarding this property and it has been the subject of neighborhood court.

PRE-CONDEMNATION LETTER: July 8, 2011

TAX INFORMATION: Current

COST ASSESSMENTS/DATES: None

PREMISE CONDITIONS: Bulky waste and debris.

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: None

POLICE REPORT: There have been no reported police incidents at this location within the last five years.

FORMAL CONDEMNATION ACTION INITIATED: September 16, 2011

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

HISTORIC PRESERVATION REPORT: This property may be listed on the national, state and/or local registers as a designated historic resource or it may be within the prescribed environs of a state or national register listed property or historic district. As a result, this matter is being referred to the City's Historical Preservation Board for review to determine compliance with any applicable Federal, State, local law or regulations.

OWNER'S PAST CDM HISTORY: This owner previously had a property in formal condemnation which was demolished by a City of Wichita contractor.

BOARD OF C.S.&A. RECOMMENDATION: At the November 7, 2011, BCSA hearing the owners, Rhoda and Glen Myers, attended the meeting.

The active file on this property was initiated in May 2002; several Notices of Improvement and Notices of Violation have been issued. In April of 2005, an environmental case was started on the property by Environmental Health; the owner complied with the notice and cleaned up the premises. In February of 2009, a neighborhood nuisance case resulted in owner compliance. In

July of 2011, another nuisance case was initiated and remains open. Some repairs occurred between 2005 and 2008 resulting in a few of the violations being corrected. The property has been the subject of Neighborhood Court.

A Pre-condemnation Letter was issued on July 8, 2011; the taxes are current and there are no Special Assessments against the property. There is bulky waste and debris on the premises, and no repairs have been made to the structure. The structure is secure.

Mrs. Myers told the Board that she and Mr. Myers had been working on repairs to the property. Responding to Chairman Coonrod's inquiry about how much longer it would take to complete the repairs, Mrs. Myers said she didn't know. Mr. Myers added that they had worked on the roof, replacing the wood (decking) as needed. Board Member Harder reiterated the question about how long it would take them to complete the repairs. Mr. Myers said it would take ninety days for the violations to be ninety-nine percent corrected; he also stated he had recently had a medical issue that left him hospitalized until approximately two weeks prior to the Board meeting.

Board Member Webb asked if Mr. and Mrs. Myers had had any type of assessment on the property to determine what would be required to bring the property into compliance. Mr. Myer's reply was that they had purchased a roofing permit for the northwest side of the roof. Mr. Myers stated that a recent acquisition of a table saw would assist him with getting the work finished. He also noted that in the photographs taken by Central Inspection staff on the last site inspection, the property appeared to be in worse condition than what he had believed it to be.

Chairman Coonrod opened the floor to allow other interested parties in attendance to speak about the structure:

Dunbar: I don't mind speaking. We live right next to the property.

Chairman: Could you identify yourself, please?

Dunbar: John Dunbar, 716 S. Estelle.

Chairman: Ok.

Dunbar: And the main problem that we have with it is that, not only does it devalue our own property, if we were going to go try to sell ours, but it's all…it's a danger. There's a-an extension ladder, there's scaffolding on the other side. We have five children in our home, and we keep an eye on them, but, you know, one of the older children, if they want to go over there, I mean the ladder is right next to our property, right there, and actually, it's worse than it was. I mean, he was up there and tore a lot of the singles off, and now there's a big hole in the roof that's covered by a tarp, and one ladder holding it down…

Carmichael: (showing photo to Board) (inaudible) …the ladder…

Dunbar: …holding the tarp down…

Carmichael: It's been there for over a year…

Dunbar: Yeah, the ladder's been there for quite awhile. I thought about moving it myself, but that would be trespassing, and I didn't want to get in trouble for it, but it's a danger. I mean if one of our kids happens over there, it's…

Carmichael: (showing photos to Board) This is some of the work that went on last weekend. See the ladders stacked against ladders. This is the quality of work that's going on underneath the shingles that you see today, and---

Chairman: Sir, I'm sorry, sir---

Van Zandt: Sir, can you please identify yourself?

Carmichael: My name is Dahl Carmichael and I stay at 713 S. Estelle, right across the street, and I've watched this for about…

Female (unidentified): Ten years…(inaudible)

Carmichael: …at least ten years…

Female (unidentified): …oh, nine years since (inaudible)

Carmichael: You know---

Van Zandt: Excuse me for a minute, when we transcribe this…what I need you to do is one of you at a time speak. Procedurally you have up to five minutes to speak, and then state your name and address, and then if somebody else wishes to, at that time, they can; but we can't have everybody at the same time talking or we can't figure out who it is or track it. Thank you.

Chairman: …(inaudible)…Are you done?

Dunbar: Well, that's pretty much what I had, the dangers and then the devaluation. Well, yeah, to do the work on the roof, do they have to have a permit to do that kind of thing, reroof, to do any kind of work…not getting it cleaned up the way that it should be…?

Chairman: Yes, they do have to have a permit, to answer your question. Mr. Carmichael, would you like to state….?

Carmichael: Sure….I brought several photos (distributes to Board Members) and I have dates on some of them…not dates on all of them…ah, he's already mentioned about the devaluation, and, the danger…And what I'm here to talk about is the progress. Over the last ten years, since the property caught on fire, there's been no progress at all. This house has been doused with water to put the fire out, and this is what it looks like today…actually, it looks worse than that today…and, and now the water's pouring in right now. So inside that house, I can't really…it's not really fair to speculate here how bad it can be inside that house as far as invisible microbial growth. After ten years of a lot of water…

Board Member Harder: Just so you know, we only deal with the outside…

Carmichael: Ok…

Board Member Harder: …we can't---

Carmichael: The, the point is, I'm not real---there's not really any salvage for this property. I don't, there's not any, there's not any way to salvage this property that I can see, and I've been in

property ever since I was fourteen years old, rentals, and, you know, real estate sales, architectural and engineering design. That's what I do for a living, so, I can, I can just tell you after watching this property for about twenty years now, there's not much hope for it. Today, I think one of those pictures shows the slats underneath, the slats un—and I think he has gone and got a building permit, it sounds like, but the building permit would also include that the work has to be done in a workmanlike manner and up to City code, and you can tell that those slats are not up to City codes, and putting some shingles on top of those slats is not going to be up to City code. And you guys would know better than me, but I'm pretty sure that all of those shake shingles have to be taken off before we can put another layer of shingles on, felt and shingles. So…

Chairman: (inaudible)

Carmichael: The work's not being done in a workmanlike manner and progress is not going forward, it's going backwards.

Chairmain: Yes?

Neal: My name is Officer Stephanie Neal…

Chairman: Would you come up here, just so we can make sure it's transcribed, stand up here…

Neal: I'm the community police officer for thirty-two beat, which 722 S. Estelle falls on… I got involved in this because residents of the neighborhood contacted me because they were tired of the state of disrepair of this house. This is not the only property that is owned by them, by the property owners, that's in a state of disrepair…(inaudible)…other houses that have violations, environmental health violations. They do own other properties that are also under condemnation, my understanding, and are also…have housing code and health code violations. Like I said, we had a neighborhood meeting to get everyone from the neighborhood together so that they could express their concerns. Their main thing is the fact that this has gone on for ten years. For ten years they've watched their property values and…deplete…because the state of this house has fallen into such a state of disrepair. Since I got involved this summer, that scaffolding has been up there and has not moved, which is a danger. The ladder has been up there and has not moved, which is a danger. You know, part of the reason we get involved in these things is we're supposed to fight blight in our neighborhoods to keep crime down. This is a house that's not…very easily be secured because there is so much stuff in there which means people can get in there and do whatever. And I do have a background in construction, my father owns a construction company and I grew up with it for many years, and in my personal opinion, from walking just even on the outside of this house, it is not something structurally that can be salvaged with some, some wood and nails. It's-it basically has to be torn down and rebuilt from the ground up because it's not a structurally sound house. So, we encouraged the neighbors to take time off of work to come in to express to you guys what they've been through for the last ten years. We told them to take photographs of what they had to look at outside of their front doors every day, or from their side doors, or what their, you know, children have to play next to that they have to worry about their kids getting hurt at, So that was one of the things we encouraged and I think the fact that any of these homeowners took the time off of work to come to this meeting shows how strongly they feel about this issue and how much they care about their neighborhood in the state that it's in and what it looks like. Thank you.
Mrs. Myers: Could I respond to that, please?

Chairman: Just a minute…Is anybody else here…(inaudible)…please come up and identify yourself and your address.

Martin: Joyce Martin and I live at 713 S. Estelle, which is across the street, catty-corner from this house, and pretty much most of what I would have had to say has been said, except that I do want to emphasize that I am also in the construction trades and I do not believe that the work that Mr. Myers has done would comply with any sort of codes. My understanding of how a house is supposed to be roofed, or reroofed, and this does not cut it. Off and on, for the last ten years he's gotten up on the roof, and he's put up a few shingles and he's put up a few boards, but it's not roofing. It's what you see there, is the work that he has done for the last ten years, and that is not roofing. And I do believe that this house probably has some structural dangers on the inside because it has been raining inside this house since it caught on fire, and there were all those openings made in 2009. I mean in, nine years ago, so we're just, and the neighborhood is really tired of staying in and the dangers that we believe exist. Thank you.

Chairman: Thank you. Anyone else?

Johnson: My name's Kyle C. Johnson, 711 S. Estelle resident. Everything they said is true and correct. I've grown up in 711 S. Estelle, all twenty-eight years, and this house has pretty much been like this or has gotten worse, all twenty-eight years of my life, and I don't have any background as far as buildings, or anything like that, but I was a Wichita-Sedgwick County Fireman, er, volunteer fireman, and I took a few building construction classes, and this house is structurally not intact in any way, shape, or form. And the, Christine and John Dunbar, they… I just worry about their kids playing over there since it's right next to the house, and that ladder could probably fall most any time. so, that's ….thank you.

Van Zandt: Procedurally you can speak and then the Board can address the issue.

Mrs. Myers: Well, I was, I was not even aware of any community meeting, and it would have been nice to have been invited to a meeting where you were going to criticize. That's my comment. I was not aware of it until after the fact. And we do own one and a half houses in that area.

Mr. Myers: The lower, lower area, all around, low, has been painted, painted last summer. Mostly on the back, up high, it's not painted, but, but this, well, this ladder will be gone within the week. If it stops raining enough, because that's, I..I worked three days on that..(inaudible)..the ladder will be gone. They have, they have a legitimate complaint there. But the ladder will be gone. It's almost done. I worked three days on it. But-but that ladder will be gone.

Chairman: Any, any other questions from the Board?

Board Member Harder: Somebody needs to (inaudible)

Board Member Redford: Well, from the pictures, for the roof decking, replacing the boards, 2-bys isn't structural enough. You need a plywood roof deck, or a diaphragm, to tie it together and just from the pictures it doesn't look…it doesn't appear salvageable to me.

Mr. Myers: You say it does not appear salvageable? Is that what you're saying? I'm sorry?
Board Member Redford: For the roof deck, it doesn't appear salvageable. You need…It, it needs to be stripped (inaudible)---

Mr. Myers: Well this, this, this side here was stripped. This was stripped. And…and…and the boards were put in where needed. I've kept, I've kept them, I've kept them covered with, roofing so it won't rot.

Board Member Redford: Per code, old style construction you had two-bys, two-bys, and then you used to put one- bys on top, and put your shingles on one-bys. Per code nowadays, you need a plywood roof deck, and create a roofing diaphragm. It's ok to replace two-bys, but you need a roof, a plywood roof deck for a diaphragm, correct?

Schroeder: You need solid roof decking.

Board Member Redford: You need a solid roof deck, because you can't even…it's not structural.

Mr. Myers: If, if, if, well…these boards need to be replaced, places where code requires, I can probably use plywood. I can cut plywood, now I have a table saw.

Board Member Banuelos: I make a motion to go ten and ten.

Board Member Harder: Second, Harder.

Chairman: It's been moved and seconded by Banuelos and Harder to go ten and ten on this property. All those in favor say 'Aye.'

Board Members: Aye. (Board Member Wilhite was not present for this vote.)

Chairman: Opposed? (No opposition was voice by the Board Members) So moved. You want to explain that, Kurt?

Schroeder: What the Board's done, based on the evidence presented today is they voted to recommend to the City Council that the City Council proceed with condemnation of this building. That would, I can't give you an exact date, that will probably be around the second or third week in January. But you'll be notified of the date of that hearing in advance, and then, of course, given an opportunity at the Council meeting to, to speak about this issue.

Mr. Myers: Thank you for your consideration.

Schroeder: That's all for today.

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: December 28, 2011

CDM SUMMARY

COUNCIL DISTRICT # IV

ADDRESS: 1780 S. SENECA CT

LEGAL DESCRIPTION: LOT 17, FULGROAT ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 30 x 42 feet in size. Vacant and open, this structure has rotted and missing masonite siding; missing metal and vinyl siding; badly worn composition roof, with holes and missing shingles; deteriorated fascia, soffits and wood trim; and the 27 x 24 foot accessory structure is deteriorated.

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

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

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

C. Those 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: December 28, 2011

BCSA GROUP # 4

ADDRESS: 1780 S. SENECA CT

ACTIVE FIELD FILE STARTED: June 5, 2009

NOTICE(S) ISSUED: Since June 5, 2009, numerous violation notices have been issued. In September 2007, an environmental case was initiated resulting owner compliance. In June 2008, a neighborhood nuisance case was initiated resulting in City of Wichita contractor abatement. In June 2009, a tall grass and weeds case was initiated resulting in City of Wichita contractor abatement. In September 2009, a tall grass and weeds case initiated resulting in City of Wichita contractor abatement. In April 2010, a tall grass and weeds case was initiated resulting in City of Wichita contractor abatement. In May 2011, a tall grass and weeds case was initiated resulting in City of Wichita contractor abatement. In May 2011, a neighborhood nuisance case was initiated resulting in City of Wichita contractor abatement. On May 6, 2011, Central Inspection staff completed an emergency board-up at a cost of $158.88. On July 8, 2011, Central Inspection staff completed an emergency board-up at a cost of $113.67. On September 9, 2011, Central Inspection staff completed an emergency board-up at a cost of $108.73. On December 16, 2011, Central Inspection staff completed an emergency board-up at a cost of $108.55. It should be noted that uniform criminal complaints have been issued regarding this property and it has been the subject of neighborhood court.

PRE-CONDEMNATION LETTER: March 30, 2011

TAX INFORMATION: The 2008, 2009, 2010 and 2011 taxes are delinquent in the amount of $5,666.28, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2009 special assessment for lot cleanup in the amount of $1,676.88; 2010 special assessment for weed cutting in the amount of $124.23; 2010 special assessment for weed cutting in the amount of $124.21; 2011 special assessment for emergency board-up in the amount of $169.66, all assessments include interest. There two 2012 pending assessments one is for emergency board-up in the amount of $222.40 and weed cutting in the amount of $120.00.

PREMISE CONDITIONS: Some miscellaneous debris.

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: Lot cleanup on October 8, 2008, in the amount of 1,463.01; weed mowing on July 22, 2009, in the amount of $120.24; weed mowing on September 30, 2009, in the amount of $120.24; weed mowing on June 6, 2011, in the amount of $120.00 and lot cleanup on August 4, 2011, in the amount of $639.70.

POLICE REPORT: In the past five years there has been four reported police incidents at this location including trespass and (3) miscellaneous reports.

FORMAL CONDEMNATION ACTION INITIATED: September 16, 2011

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

HISTORIC PRESERVATION REPORT: No impact

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the November 7, 2011, 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 begin demolition and ten days to complete demolition. Board Member Banuelos seconded the motion. The motion was approved. (Board Member Wilhite was not present for this vote.)

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: December 28, 2011

CDM SUMMARY

COUNCIL DISTRICT # VI

ADDRESS: 2704 N. WELLINGTON

LEGAL DESCRIPTION: LOTS 131-132 & W 12 1/2 FT LOT 133 NORTH LAWN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame dwelling about 28 x 30 feet in size. Vacant for at least 5 years, this structure has broken and missing asbestos siding shingles; exposed, deteriorated wall sheathing and rotted fascia and wood trim.

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: December 28, 2011

BCSA GROUP # 6

ADDRESS: 2704 N. WELLINGTON

ACTIVE FIELD FILE STARTED: November 29, 2006

NOTICE(S) ISSUED: Since November 29, 2006, notice of improvements and numerous violation notices have been issued. In June 2008, a neighborhood nuisance case was initiated resulting in City of Wichita contractor abatement. In June 2009 and June 2010, tall grass and weeds cases were initiated both resulting in City of Wichita contractor abatements. In July 2011, a tall grass and weeds case was initiated resulting in owner compliance. On June 1, 2007, Central Inspection staff completed an emergency board-up on this property at a cost of $273.02. On May 6, 2011, Central Inspection staff completed an emergency board-up on this property at a cost of $134.55. It should be noted that uniform criminal complaints have been issued regarding this property and it has been the subject of neighborhood court.

PRE-CONDEMNATION LETTER: May 2, 2011

TAX INFORMATION: The 2007, 2008, 2009, 2010 and 2011 taxes are delinquent in the amount of $8,597.86, which includes specials and interest.

COST ASSESSMENTS/DATES: There is a 2007 special assessment in the amount of $1,946.73; 2008 special assessment in the amount of $335.40; 2009 special assessment in the amount of $1,762.04; 2010 special assessment for weed cutting in the amount of $124.23; 2011 special assessment for weed cutting in the amount of $126.68 and 2011 special assessment for board-up in the amount of $138.85, all assessments include interest.

PREMISE CONDITIONS: Miscellaneous debris and tree waste.

VACANT NEGLECTED BUILDING REPORT: Pending case

NUISANCE ABATEMENT REPORT: Lot cleanup on October 27, 2008, in the amount of $1,246.75; weed mowing on July 27, 2009, in the amount of $120.24 and weed mowing on August 10, 2010, in the amount of $123.00.

POLICE REPORT: There have been no reported police incidents at this location within the last five years.

FORMAL CONDEMNATION ACTION INITIATED: September 16, 2011

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

HISTORIC PRESERVATION REPORT: No impact

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the November 7, 2011, BCSA hearing there was no representative present on behalf of this property.

On November 29, 2006, the active file was initiated on this property. The 2007, 2008, 2009, and 2010 taxes are delinquent in the amount of $7,685.32, which includes specials and interest. There is a 2007 Special Assessment in the amount of $1,946.73; a 2008 Special Assessment in the amount of $335.40; a 2009 Special Assessment in the amount of $1,762.04; a 2010 Special Assessment for weed

cutting in the amount of $124.23; a 2011 Special Assessment for weed cutting in the amount of $126.68; and a 2011 Special Assessment for board-up in the amount of $138.85. All assessments include interest.

Board Member Webb made a motion to refer the property to the City Council, recommending condemnation, with ten days to begin removal of the structure and ten days to complete the razing and clean up of the site. Board Member Harder 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.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: General Obligation Bond and Note Sale

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale two series of general obligation temporary notes in a principal amount of approximately $45,865,000 (Series 243 and 250) and two series of general obligation bonds (Series 803 and 808) in a principal amount of approximately $25,625,000 for the purpose of providing interim and permanent financing for capital improvement projects of the City.

Analysis: The proceeds from the sale of the Series 243 and 250 Renewal and Improvement Notes will be used to provide interim financing for City-at-large, improvement district projects and improvements related to Tax Increment Financing (TIF) Districts. Due to the nature of the TIF improvements, the Series 243 Renewal and Improvement Notes are taxable under Federal law.

The proceeds from the sale of the Series 803 Bonds will be used to permanently finance Storm Water Utility, City-at-large and other public improvement projects. The proceeds from the sale of the Series 808 Bonds will be used to permanently finance neighborhood improvements located in special improvement districts.

Bids will be accepted electronically via ***PARITY*** Electronic Bid Submission System until 10:00 a.m. CT in the Finance Conference Room. No bids will be accepted after the 10:00 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest overall cost to the City.

Financial Considerations: The Series 243 ($7,870,000) and Series 250 ($37,995,000) Temporary Notes will mature on February 7, 2013 and will be retired using cash, the proceeds of permanent financing bonds and/or renewal notes issued at that time or from other sources. Each Series of Temporary Notes will be callable on August 9, 2012 at par. The Series 803 Bonds ($19,905,000) will mature serially over 10 and 15 years and will be callable beginning in 2019 with a 1% call premium. Bonds maturing June 1, 2020, and thereafter, may be called for redemption prior to their respective maturities on and after June 1, 2019, at par. The Series 808 Bonds ($5,720,000) will mature serially over 15 and 20 years and will be paid from special assessments that are levied against benefited property. The Series 808 Bonds maturing June 1, 2023, and thereafter, may be called for redemption and payment prior to their respective maturities on and after June 1, 2022 at par.

Goal Impact: This item impacts the Economic Vitality/Affordable Living and Internal Perspectives through the temporary and permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

Legal Considerations: The Law Department has approved the form of the ordinances and resolutions which have been prepared by Bond Counsel and, on the sale date, Bond Counsel reviews the bids for conformity to the bid conditions contained in the Official Notice of Sale and reports any irregularities in the bids to the Finance Department.

Recommendations/Actions: It is recommended that the City Council: Direct the opening and reading of the bids; award the sale of the Bonds subject to approval of the final sizing terms of the Bonds by the City Manager, his designee or the Director of Finance; adopt the Bond Ordinances and Resolutions and authorize the publication of the Bond Ordinances; and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond Ordinances on the date of their introduction.

Attachments: For each Bond and Note series:

Request for Declaration of Emergency
Resolution Authorizing Issuance of Bonds/Notes
Ordinance Authorizing Issuance of Bonds/Notes

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*, January 10, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 803, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $19,905,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 803 Bonds occur on the same day bids are received and to enable the City to deliver the Series 803 Bonds authorized by said Ordinance on February 9, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit,* January 10, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 808, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $5,720,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 808 Bonds occur on the same day bids are received and to enable the City to deliver the Series 808 Bonds authorized by said Ordinance on February 9, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit,* January 10, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 243 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $7,870,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 243 Notes occur on the same day bids are received and to enable the City to deliver the Series 243 Notes authorized by said Ordinance on February 9, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

4843-9679-2334.1

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,* January 10, 2012, of an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 250, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $37,995,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Series 250 Notes occur on the same day bids are received and to enable the City to deliver the Series 250 Notes authorized by said Ordinance on February 9, 2012.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

EXECUTED at Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

ORDINANCE NO. 49-180

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 803, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $19,905,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the "Improvements" as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid by the issuance of general obligation bonds of the City and other available funds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of $19,905,000, all of which is payable by the issuance of general obligation bonds of the City, including any premium received on such bonds; and

WHEREAS, the Governing Body is authorized by the laws of the State, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City's general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds $2,000,000; and

WHEREAS, pursuant to Resolution No. 11-282 duly adopted December 20, 2011, the Governing Body advertised for bids at a public sale approximately $19,905,000 principal amount of the City's General Obligation Bonds, Series 803 (the "Bonds" as further described in the Bond Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-077 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and

provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, the Bonds shall be issued in an amount not to exceed $19,905,000. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely

affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as

are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 10, 2011.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4832-8248-3214.1

ORDINANCE NO. 49-181

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 808, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $5,720,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS IT BECOMES DUE AND PAYABLE; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the City of Wichita, Kansas (the "City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, pursuant to and under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented, the Governing Body has duly taken various actions, including the adoption, and publication, where necessary, of resolutions, ordinances and other proceedings as required by said laws, to authorize certain capital improvements in the City (the "Improvements" as further described in the herein referenced Bond Resolution), and has provided that the costs thereof shall be paid from special assessments collected in cash and/or by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has found and determined that the combined total final costs and related expenses of the Improvements, less any cash paid by the owners of the real properties against which special assessments therefore were levied and less other available funds of the City as detailed on said **Schedule I** attached to the Resolution, leaves a balance for which funding is necessary of $5,720,000, all of which is chargeable to and has been specially assessed against various real properties in the City benefited by the respective Improvements and which special assessments were not paid within the time provided by law; and

WHEREAS, the Governing Body is authorized by the laws of the State, including K.S.A. 10-101 *et seq.*, as amended and supplemented, to issue the City's general obligation bonds to provide the necessary funds for the permanent financing of the costs and expenses of the Improvements specially assessed against benefited real property and not paid in cash within the time provided by law; and is required, by K.S.A. 10-106, as amended and supplemented, to sell such general obligation bonds at public sale if the principal amount thereof exceeds $2,000,000; and

WHEREAS, pursuant to Resolution No. 11-282 duly adopted December 20, 2011, the Governing Body advertised for bids at a public sale approximately $5,750,000 principal amount of the City's General Obligation Bonds, Series 808 (the "Bonds" as further described in the Bond

Resolution herein referenced), for the aforesaid purpose; and such public sale has been duly held and the Governing Body has awarded the Bonds to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-077 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation bonds in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Bonds authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Bonds, to prescribe the terms and details thereof, to provide for the levy and collection of an annual tax in order to provide for the payment of the principal of and interest on the Bonds, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Bond Resolution.

Section 2. Authorization of and Security for the Bonds. It is hereby authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, the Bonds shall be issued in an amount not to exceed $5,720,000. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.,* as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged to secure the prompt payment of the principal of and interest on the Bonds as the same severally become due and payable.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Bond Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.,* as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall annually make provision for the payment of the principal of, premium, if any, and interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected. Notwithstanding the foregoing, the Governing Body may permit the deferral of special assessments provided such deferrals do not adversely impact the tax-exempt status of the interest on the Bonds and comply with applicable State law and provided further that the City-at-large provides for the payment of principal of and interest on the Bonds in accordance with the further terms of this Ordinance.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Bond Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka,

Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Bonds and the Bonds in accordance with the provisions of the Bond Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 10, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4849-4342-7598.1

ORDINANCE NO. 49-182

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 243 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $7,870,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the "City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City (the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 241, dated February 10, 2011 (the "Original Notes"), the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for

the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, pursuant to Resolution No. 11-282 duly adopted December 20, 2011, the Governing Body advertised for bids at a public sale approximately $7,870,000 principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 243 (Taxable Under Federal Law), for the purpose of renewing interim financing for the Original Improvements and providing new interim financing for the Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew the Original Notes and for the interim financing of the Improvement Costs all as further described on Schedule I to the Note Resolution, there shall be issued general obligation renewal and improvement temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Note Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Note Registrar for the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days' written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

Section 6. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall

approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 7. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 10, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4826-4501-4542.3

ORDINANCE NO. 49-183

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 250, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $37,995,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the City of Wichita, Kansas (the "City"), is a city of the first class duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 10-123, as amended and supplemented, provides that if a municipality has approved an improvement which is to be paid for in whole or in part by the issuance of general obligation bonds, the municipality may issue temporary notes for the purpose of financing the costs of the improvements until the issuance of such bonds; and provides further that any municipality may issue renewal temporary notes to pay the costs of redeeming any previously issued temporary notes as they mature when the improvement will not be completed at the maturity date of the notes or when the improvement has been completed but the issuance of such bonds is prevented, hindered or delayed; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City (the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 246, dated August 11, 2011 (the "Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for

the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, pursuant to Resolution No. 12-282 duly adopted December 20, 2011, the Governing Body advertised for bids at a public sale approximately $37,995,000 principal amount of the City's General Obligation Renewal and Improvement Temporary Notes, Series 250, for the purpose of renewing interim financing for the Original Improvements and providing new interim financing for the Improvements and such public sale has been duly held and the Governing Body has awarded the Notes to the best bidder therefor; and

WHEREAS, the Governing Body, on September 13, 2011, adopted Ordinance No. 49-078 relating to a master undertaking to provide ongoing disclosure concerning the City for the benefit of owners of its general obligation temporary notes in compliance with Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-l2, and said Ordinance, the terms and provisions thereof, and actions required by the City as set forth therein are by reference incorporated in this Ordinance and made applicable to the Notes authorized hereby as though fully set forth herein; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary to authorize the issuance and delivery of the Notes, to prescribe the terms and details thereof, to provide for the payment of the principal of and interest on the Notes, and to make certain other covenants and agreements with respect thereto;

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

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Note Resolution herein referenced.

Section 2. Authorization of and Security for the Notes. It is hereby authorized, ordered and directed that in order to provide the necessary funds to renew a portion of the principal amount of the Original Notes and for the interim financing of the Improvement Costs all as further described on **Schedule I** to the Note Resolution, there shall be issued general obligation renewal and improvement temporary notes of the City (the "Notes"). In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by this Note Ordinance to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessments taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 3. Terms, Details and Conditions of the Notes. The Notes shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Note Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Notes, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Levy and Collection of Annual Tax. The Governing Body hereby covenants that it shall make provision for the payment of the principal of and interest on the Notes on the Maturity Date by the levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor upon the completion of the Original Improvements and the Improvements, as provided by law; provided, that if the amounts collected from such special assessment taxes are insufficient to fully pay the principal of and interest on the Notes on the Maturity Date, or if any of the Original Improvements or the Improvements are not completed by the Maturity Date or the Governing Body is otherwise hindered from then levying and collecting such special assessment taxes, and for any of the costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, then said Governing Body shall provide for the payment of all or any portion of the principal of and/or interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the amounts collected from such special assessment taxes and/or the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. Notwithstanding the foregoing, the Governing Body may permit the deferral of special assessments provided such deferrals do not adversely impact the tax-exempt status of the interest on the Notes and comply with applicable State law and provided further that the City-at-large provides for the payment of principal of and interest on the Notes in accordance with the further terms of this Ordinance. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements or the Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 5. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Note Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 6. Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Note Registrar for the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days' written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

Section 7. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance, the Official Statement relating to the offering and sale of the Notes and the Notes in accordance with the provisions of the Note Resolution. The Governing Body hereby further authorizes, orders and directs the City Clerk of the City to countersign the Notes and the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and

deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 8. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on January 10, 2012.

(Seal) _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4842-2207-2846.3

RESOLUTION NO. 12-001

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 10, 2012

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED $19,905,000

GENERAL OBLIGATION BONDS
SERIES 803

DATED FEBRUARY 1, 2012

4845-8651-8542.1

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RESOLUTION NO. [Res #]

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 803, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $19,905,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount not to exceed $19,905,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean the Constitution of the State (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156, K.S.A. 10-101 *et seq.*, K.S.A. 12-685 *et seq.*, and K.S.A. 13-1024c, all as amended and supplemented.

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

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

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

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

"Bonds" shall mean the General Obligation Bonds, Series 803, dated February 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $19,905,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is February 1, 2012.

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

"Debt Service Fund" shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City's general obligation indebtedness.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

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

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

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

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

"Improvement Account" shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

"Improvement Costs" shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

"Improvements" shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

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

"Interest Payment Dates" shall be June 1 and December 1 of each year commencing December 1, 2012, and ending June 1, 2027, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

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

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

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

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean June 1 of each year, commencing June 1, 2013, and ending June 1, 2027, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" means the original purchase price of the Bonds described on **Exhibit A** to this Resolution.

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

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

"Resolution" or "Bond Resolution" shall mean this Resolution, adopted by the Governing Body of the City on January 10, 2012, prescribing the terms and details of the Bonds.

"State" shall mean the State of Kansas.

"Substitute Improvements" shall mean the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

"Term Bonds" means the Term Bonds, if any, described on **Exhibit B** to this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, the Bonds shall be issued. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 **Description and Details of Bonds**. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Bonds, Series 803." All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule (including any mandatory redemption) and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution provided the final principal amount shall not exceed $19,905,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 2.03 **Designation of Paying Agent and Bond Registrar**. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days'

written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B)**.

Section 2.04 Method and Place of Payment of Principal and Interest on Bonds.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed

facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Bonds. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 Registration, Transfer and Exchange of Bonds. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon

the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 **Mutilated, Lost, Stolen or Destroyed Bonds**. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III
REDEMPTION OF BONDS

Section 3.01 Optional Redemption. The Bonds maturing June 1, 2013, to June 1, 2019, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing June 1, 2020, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after June 1, 2019. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the "Redemption Date"). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), as follows, plus accrued interest to the Redemption Date:

Redemption Dates (Inclusive)	Redemption Prices
June 1, 2019, through May 31, 2020	101.00%
June 1, 2020, through May 31, 2021	100.00%

Section 3.02 **Sinking Fund Redemption**. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 3.03 **Selection of Bonds to be Redeemed**. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.04 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from

and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 **Deposit of Moneys for and Payment of Redemption Price**. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided by **Section 3.02** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 **Effect of Call for Redemption**. Whenever any Bond, or one or more of the $5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the $5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts**. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 803;

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 803, to be created within the City's Debt Service Fund; and

(C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 803.

Section 4.02 **Administration of Funds and Accounts**. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Bond Proceeds. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bond and the purchase price premium, if any, shown on **Exhibit B** to be deposited in the Principal and Interest Accounts; and

(B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 **Withdrawals from Improvement Account**. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 **Surplus in Improvement Account**. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 **Substitution of Improvements**. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits**. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 **Investments**. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 **Remedies Cumulative; Delay or Omission Not Waiver**. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 **Amendments**. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under

the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 **Written Evidence of Amendments**. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 **Defeasance**. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds

shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury

regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 **Governing Law**. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 **Effective Date**. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

SCHEDULE I

THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 803 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below

"Bond Ordinance" shall mean Ordinance No. [Ord #] of the City, passed by the Governing Body on January 10, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" shall mean _____, _____, _____, the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	**Interest Rate**
June 1, 2013	%
June 1, 2014	
June 1, 2015	
June 1, 2016	
June 1, 2017	
June 1, 2018	
June 1, 2019	
June 1, 2020	
June 1, 2021	
June 1, 2022	
June 1, 2023	
June 1, 2024	
June 1, 2025	
June 1, 2026	
June 1. 2027	

EXHIBIT B

FINAL SIZING TERMS OF THE SERIES 803 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, the principal amount of $_____, plus a premium of $_____, plus accrued interest to the date of delivery.

["20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due in the amounts and on the dates set forth below:

Maturity Date	**Maturing Principal**
June 1, 2013	$
June 1, 2014	
June 1, 2015	
June 1, 2016	
June 1, 2017	
June 1, 2018	
June 1, 2019	
June 1, 2020	
June 1, 2021	
June 1, 2022	
June 1, 2023	
June 1, 2024	
June 1, 2025	
June 1, 2026	
June 1. 2027	

[TERM BONDS

Principal Payment Date	**Amount of Principal Payment**
June 1, 20__	$,000
June 1, 20__	,000

4845-8651-8542.1

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on June 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$,000
20__	,000
20__	,000
20__*	,000

* Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-002

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 10, 2012

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED $5,720,000

GENERAL OBLIGATION BONDS
SERIES 808

DATED FEBRUARY 1, 2012

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RESOLUTION NO. [Res. #]

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 808, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $5,720,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS TO PAY COSTS IN CONNECTION WITH THE MAKING OF CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE BONDS; AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE BONDS.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Bonds in the aggregate principal amount not to exceed $5,720,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Bonds; and

WHEREAS, in accordance with the provisions of the Bond Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Bonds pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean K.S.A. 10-101 *et seq.*, and K.S.A. 12-6a01 *et seq.*, all as amended and supplemented, under the authority of which statutes the Improvements are authorized and the Bonds are issued.

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

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

"Bond Ordinance' shall mean the ordinance authorizing the issuance of the Bonds as further described on **Exhibit A** to this Resolution.

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

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

"Bonds" shall mean the General Obligation Bonds, Series 808, dated February 1, 2012, of the City of Wichita, Kansas, which are authorized by and will be issued pursuant to the authority of the Bond Ordinance and this Resolution; provided the original principal amount of the Bonds shall not exceed $5,720,000.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

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

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the Yield on the Bonds or investment of the proceeds of the Bonds, and in connection with receiving municipal bond insurance and/or

ratings on the Bonds. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements.

"Date of Issuance" shall mean the date on which the Bonds are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds which is February 1, 2012.

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

"Debt Service Fund" shall mean the Debt Service Fund of the City created, held and administered solely for the purpose of receiving and disbursing funds for the payment of the City's general obligation indebtedness.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

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

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

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

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

"Improvement Account" shall mean the Improvement Account for the Improvements created by **Article IV** hereof.

"Improvement Costs" shall mean the amount of capital expenditures for an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to

redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Bonds, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds, unless such amounts are entitled to be reimbursed under State and Federal law.

"Improvements" shall mean the capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

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

"Interest Payment Dates" shall be June 1 and December 1 of each year commencing December 1, 2012, and ending June 1, 2032, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Bonds.

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

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

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

"Original Purchaser" shall mean the original purchaser of the Bonds described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Bonds, shall mean, as of a particular date, all Bonds theretofore authenticated and delivered under this Resolution, except (i) Bonds theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Bonds for which payment or redemption moneys or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal, redemption premium, if any, and interest on the Bonds being paid or redeemed), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to maturity or the Redemption Date of the Bonds), and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution.

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

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Debt Service Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Bonds.

"Principal Payment Date" shall mean June 1 of each year, commencing June 1, 2013, and ending June 1, 2032, or until such other date as all of the Bonds shall have been paid or provision for such payment has been made.

"Purchase Price" shall mean the original purchase price of the Bonds described on **Exhibit B** to this Resolution.

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

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

"Resolution" or "Bond Resolution" shall mean this Resolution adopted by the Governing Body of the City on January 10, 2012, prescribing the terms and details of the Bonds.

"State" shall mean the State of Kansas.

"Substitute Improvements" shall mean the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

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

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF BONDS

Section 2.01 Authorization of and Security for Bonds. Pursuant to the Bond Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to pay the Improvement Costs, the Bonds shall be issued. In all matters relating to the issuance, registration and delivery of the Bonds, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Bonds shall be and constitute valid and legally binding general obligations of the City, and shall be payable as to both the principal of and the interest thereon from the collection of special assessment taxes which have been levied against real properties in the City which benefited from the Improvements, and if not so paid, then said principal and interest shall be paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the City. Pursuant to the Bond Ordinance, the full faith, credit and resources of the City are irrevocably pledged to secure the prompt payment of the principal of and the interest on the Bonds as the same severally becomes due and payable.

Section 2.02 Description and Details of Bonds. The Bonds shall be designated "City of Wichita, Kansas, General Obligation Bonds, Series 808." All of the Bonds shall be dated the Dated Date and shall become due on the dates set forth on **Exhibit A** to this Resolution (the "Principal Payment Dates"). The Bonds shall bear interest at the rates described on **Exhibit A** to this Resolution (computed on the basis of a 360-day year of 12 30-day months) and shall be payable on the Interest Payment Dates. The City Manager, the Finance Director or the City Manager's designee is hereby authorized to approve the final principal amount, maturity schedule (including any mandatory redemption) and Purchase Price for the Bonds as to be set forth on **Exhibit B** to this Resolution provided the final principal amount shall not exceed $5,720,000, the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Dates, and shall be numbered in such manner as the Fiscal Agent shall determine. The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective Date of Authentication, unless such effective Date of Authentication shall be prior to the first Interest Payment Date in which case the Bonds shall bear interest from the Dated Date.

The Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of

and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

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

Section 2.03 **Designation of Paying Agent and Bond Registrar**. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, has been designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Bonds and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City and the Paying Agent will make payment for the Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B).**

Section 2.04 **Method and Place of Payment of Principal and Interest on Bonds**.

(A) Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued

to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Bonds, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Bonds, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it

has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Bonds issued under the Bond Ordinance and this Resolution.

Section 2.06 **Payment of Costs of Bonds**. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 **Form of Bonds**. The definitive typewritten or printed form of the certificates representing the Bonds issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Bonds and hereby further authorizes, orders and directs Bond Counsel, in the event the Bonds in certificated form are issued at any time after the initial issuance and delivery of the Bonds, to prepare the form of and cause such certificated Bonds to be printed.

Section 2.08 **Registration, Transfer and Exchange of Bonds**. In the event the Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

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

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Bonds remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Bonds, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Bond shall have matured or been called for redemption, instead of issuing a duplicate bond the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Bond their reasonable fees and expenses in connection with the replacement of such Bond or Bonds.

Section 2.10 Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Bonds so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Bond shall be canceled and the canceled Bond shall be returned to the City.

Section 2.11 Execution and Delivery of Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Bonds without unnecessary delay in the form and manner hereinbefore specified, including a reasonable

quantity of replacement bond certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Bonds shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Bonds shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 **Official Statement**. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Bonds, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Bonds. The lawful use of the final Official Statement in the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized.

ARTICLE III
REDEMPTION OF BONDS

Section 3.01 **Optional Redemption**. The Bonds maturing June 1, 2013, to June 1, 2022, inclusive, shall mature and become due on their respective maturity dates without the option of prior redemption and payment. At the option of the City, the Bonds maturing June 1, 2023, and thereafter, may be called for redemption and payment prior to the respective stated maturities thereof on and after June 1, 2022. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid (the date being so set for redemption and payment being referred to as the "Redemption Date"). Bonds called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount) of 100% of the principal amount thereof, plus accrued interest to the Redemption Date.

Section 3.02 **Sinking Fund Redemption**. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit B** to this Resolution.

Section 3.03 **Selection of Bonds to be Redeemed**. The Bonds shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Bonds at the time Outstanding, the Bonds shall be redeemed in such equitable manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Bond shall be treated as though it were a separate Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Bond has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Bond to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Bond called for redemption, and (ii) for exchange, without charge to the Owner, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any Bond of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Bond as aforesaid, the $5,000 units of the face value of such Bond which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.04 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.05 **Deposit of Moneys for and Payment of Redemption Price**. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Bonds or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Bonds selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and

in the amount of the unredeemed portion of such Bond as provided by **Section 3.03** above. All Bonds selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.06 **Effect of Call for Redemption**. Whenever any Bond, or one or more of the $5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Article, all interest on such Bond, or such one or more of the $5,000 units of face value represented by any such Bond, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts**. Simultaneously with the issuance and delivery of the Bonds, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Improvement Account for the City of Wichita, Kansas, General Obligation Bonds, Series 808;

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Bonds, Series 808, to be created within the City's Debt Service Fund; and

(C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Bonds, Series 808.

Section 4.02 **Administration of Funds and Accounts**. The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Bonds remain Outstanding.

ARTICLE V
APPLICATION OF BOND PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 **Application of Bond Proceeds**. Upon the issuance and delivery of the Bonds, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Bonds and the purchase price premium, if any, shown on **Exhibit B** to be deposited in the Principal and Interest Account; and

(B) The balance of the proceeds to the Improvement Account.

Section 5.02 **Disposition of Principal and Interest Account**. Moneys deposited in the Principal and Interest Account from the proceeds of the Bonds as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Bonds on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of, premium, if any, and the interest on the Bonds, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Section 5.03 **Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent**. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient to pay the principal of, premium, if any, and the interest on the Bonds as and when the same become due and payable, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Bonds as aforesaid. If, through the lapse of time or otherwise, the Owner of any Bond shall no longer be entitled to enforce payment of such Bond, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Bonds.

Section 5.04 **Surplus in Principal and Interest Account**. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation bond issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 **Disposition of Improvement Account**. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 **Withdrawals from Improvement Account**. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 **Surplus in Improvement Account**. All moneys remaining in the Improvement Account after the completion of the Improvements and the payment of all Improvement Costs shall be immediately transferred to the Principal and Interest Account.

Section 5.08 **Substitution of Improvements**. The City may elect to substitute or add other improvements pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits**. Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited and secured in accordance with State law.

Section 6.02 **Investments**. Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 **Deposits into and Application of Moneys in Excess Earnings Account**.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the

Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Bond shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF BONDS

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Bond Ordinance, the Governing Body covenants that it shall annually make provision for the payment of the principal of, premium, if any, and the interest on the Bonds as and when the same becomes due and payable by levying and collecting the necessary special assessment taxes upon the real properties within the City liable therefor as provided by law; provided, that if the amounts collected from such special assessment taxes are

insufficient to fully pay the maturing principal and interest on the Bonds when due, then the Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amount of special assessment taxes collected.

Section 7.02 **Disposition of Taxes; Untimely Receipt**. The proceeds derived from the aforesaid annual taxes shall be deposited into the Principal and Interest Account when received; provided, if at any time the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Bonds when required because of an untimely collection and/or receipt of said taxes, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said taxes.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 **Resolution Constitutes Contract; Remedies of Owners**. The provisions of the Bond Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Bond Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 **Rights of Owners; Limitations**. The covenants and agreements of the City contained herein, in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of any one Bond over any other Bond in the application of the moneys herein pledged to the payment of the principal of, premium, if any, and the interest on the Bonds, or otherwise, except as to the rate of interest, Principal Payment Date and right of prior redemption as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Bonds. Nothing in this Resolution, in the Bond Ordinance or in the Bonds shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Bonds held by such Owner, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Bonds without reference to or consent of any other Owner.

Section 8.03 **Remedies Cumulative; Delay or Omission Not Waiver**. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Bond of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 **Amendments**. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify the Improvements, or (iv) to provide for the issuance of coupon bonds and the exchange of the fully registered Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (iv) shall not become effective unless and until the City shall have received an opinion of

Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the fully registered Bonds for such coupon bonds, will not cause the interest on the Bonds to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (v) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Bonds then Outstanding:

(A) Extend the maturity of any payment of principal or interest due upon any Bond;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Bond;

(C) Permit a preference or priority of any Bond or Bonds over any other Bond or Bonds; or

(D) Reduce the percentage of the principal amount of the then Outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 **Written Evidence of Amendments**. Any and all modifications or amendments to this Resolution or of the Bonds shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Bonds then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Bond any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Bond or the prospective purchaser or owner of any Bond, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Bond Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of, premium, if any, and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Bond Ordinance and this Resolution shall cease and determine with respect to that principal, premium and interest so paid. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State and having full trust power; at or prior to the maturity or redemption date of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Bonds, the premium, if any, and the interest thereon to the date of maturity or the Redemption Date, as the case may be; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided by the terms of this Resolution. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably

expected on the Date of Issuance, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Bonds for so long as any of the Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution or the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in the Bond Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to

and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Bonds and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Bond Ordinance and the Bonds shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

(The Remainder of this Page was Intentionally Left Blank)

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4851-7378-6638.1

SCHEDULE I

THE IMPROVEMENTS

EXHIBIT A
ADDITIONAL TERMS OF THE SERIES 808 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below

"Bond Ordinance" shall mean Ordinance No. [Ord #] of the City, passed by the Governing Body on January 10, 2012, and authorizing and providing for the issuance of the Bonds.

"Original Purchaser" shall mean _____, _____, _____, the original purchaser of the Bonds.

Maturity Schedule. All of the Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

Maturity or Mandatory Redemption Date	**Interest Rate**
June 1, 2013	%
June 1, 2014	
June 1, 2015	
June 1, 2016	
June 1, 2017	
June 1, 2018	
June 1, 2019	
June 1, 2020	
June 1, 2021	
June 1, 2022	
June 1, 2023	
June 1, 2024	
June 1, 2025	
June 1, 2026	
June 1. 2027	
June 1, 2028	
June 1, 2029	
June 1, 2030	
June 1. 2031	
June 1, 2032	

EXHIBIT B

FINAL SIZING TERMS OF THE SERIES 808 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Purchase Price" for the Bonds shall be the par value of the Bonds, *i.e.*, the principal amount of $_____, plus a premium of $_____, plus accrued interest to the date of delivery.

["20__ Term Bonds" shall mean the Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Bonds maturing in the year 20__.]

Maturity Schedule. All of the Bonds shall be become due in the amounts and on the dates set forth below:

Maturity Date	**Maturing Principal**
June 1, 2013	$
June 1, 2014	
June 1, 2015	
June 1, 2016	
June 1, 2017	
June 1, 2018	
June 1, 2019	
June 1, 2020	
June 1, 2021	
June 1, 2022	
June 1, 2023	
June 1, 2024	
June 1, 2025	
June 1, 2026	
June 1. 2027	
June 1, 2028	
June 1, 2029	
June 1, 2030	
June 1. 2031	
June 1, 2032	

[TERM BONDS

Principal Payment Date	Amount of Principal Payment
June 1, 20__	$,000
June 1, 20__	,000

Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on June 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	Principal Amount
20__	$,000
20__	,000
20__	,000
20__*	,000

* Final maturity]

Amount of purchase price premium to be deposited in the Principal and Interest Account is $____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-003

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 10, 2012

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED $7,870,000

GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES SERIES 243 (TAXABLE UNDER FEDERAL LAW)

DATED FEBRUARY 9, 2012

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RESOLUTION NO. 12-003

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 243 (TAXABLE UNDER FEDERAL LAW), OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $7,870,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount not to exceed $7,870,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Original Improvements as listed on **Schedule I** are herein collectively referred to as the "Original Improvements"), and of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Improvements as listed on **Schedule I** are herein collectively referred to as the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 241 (Taxable Under Federal Law), dated February 10, 2011 (the "Original Notes"), the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance No. 156 of the City, K.S.A. 10-123, K.S.A. 12-1770 *et seq.*, and K.S.A. 13-1024c *et seq.*, all as amended and supplemented, under the authority of which the Improvements were authorized, the Original Notes were issued and the Notes are issued.

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements and the Original Improvements.

"Date of Issuance" shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Notes, which is February 9, 2012.

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

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

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

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

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

"Improvement Account" shall mean the Improvement Account created by **Article IV** hereof.

"Improvement Costs" shall mean the amount of capital expenditures for an Original Improvement and/or an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

"Improvements" shall mean the newly commenced capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

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

"Interest Payment Date" shall be February 7, 2013.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

"Maturity Date" shall mean February 7, 2013.

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

"Municipal Bond Insurance Policy" shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on **Exhibit A** to this Resolution.

"Note Insurer" shall mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

"Note Ordinance" shall mean the ordinance of the City authorizing the issuance of the Notes as further described on **Exhibit A** to this Resolution.

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

"Noteowner(s)" shall mean the Owner(s) of the Notes.

"Notes" shall mean General Obligation Renewal and Improvement Temporary Notes, Series 243 (Taxable Under Federal Law), dated February 9, 2012, of the City of Wichita, Kansas, in the principal amount set forth on **Exhibit A** which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

"Original Notes" shall mean the notes previously issued by the City described in the preamble to this Resolution.

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

"Original Purchaser" shall mean the original purchaser of the Notes described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

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

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Capital Project Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

"Principal Payment Date" shall mean the Maturity Date.

"Purchase Price" shall mean the original purchase price of the Notes described on **Exhibit A** to this Resolution.

"Record Date" shall mean fifteen days prior to the Maturity Date.

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

"Resolution" or "Note Resolution" shall mean this Resolution adopted by the Governing Body of the City on January 10, 2012, prescribing the terms and details of the Notes.

"State" shall mean the State of Kansas.

"Substitute Improvements" shall mean the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 **Authorization of and Security for Notes.** Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to provide interim financing for the Original Improvements and the Improvements, there shall be issued the Notes. In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be designated "City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 243 (Taxable Under Federal Law)." The Notes shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on **Exhibit A** to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date. The City Manager, the Finance Director, or the City Manager's designee is hereby authorized to approve the final principal amount and Purchase Price for the Bonds as to be set forth on **Exhibit A** to this Resolution provided the final principal amount shall not exceed $7,870,000 which shall be the par value of the Notes unless otherwise indicated on **Exhibit A**, the principal shall mature on the date and at the interest rate shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Note Registrar shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Note Registrar for

the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days' written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City and the Paying Agent will make payment for the Notes directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B).**

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and

City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution.

Section 2.06 **Payment of Costs of Notes.** The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 **Form of Notes.** The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act and for the interim financing of portions of the Improvements and the Original Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 **Registration, Transfer and Exchange of Notes.** In the event the Notes are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Notes as provided in this Resolution to be kept by the Note Registrar (the "Registration Books"), and the Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Note Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Note Registrar. Upon the surrender for transfer of any certificated Note at its office, the Note Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 **Mutilated, Lost, Stolen or Destroyed Notes.** In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The

City and the Fiscal Agent may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III
REDEMPTION OF NOTES

Section 3.01 Optional Redemption. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after August 9, 2012 (the date being so set for redemption and payment being referred to as the "Redemption Date"). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 Selection of Notes to be Redeemed. The Notes shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the $5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.03 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 **Deposit of Moneys for and Payment of Redemption Price**. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 **Effect of Call for Redemption**. Whenever any Note, or one or more of the $5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the $5,000 units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts.** Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Improvement Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 243 (Taxable Under Federal Law); and

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 243 (Taxable Under Federal Law), to be created within the City's Capital Project Fund.

Section 4.02 **Administration of Funds and Accounts.** The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V
APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 **Application of Note Proceeds.** Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes and the purchase price premium, if any, shown on **Exhibit A** to be deposited in the Principal and Interest Account; and

(B) The balance of the proceeds to the Improvement Account.

Section 5.02 **Disposition of Principal and Interest Account.** Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designated for payment of the costs of the Notes, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 Surplus in Principal and Interest Account. Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 Disposition of Improvement Account. Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs including paying a portion of the cost of refunding the Original Notes issued for the Original Improvements. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 Withdrawals from Improvement Account. Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements, and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 Surplus in Improvement Account. All moneys remaining in the Improvement Account after the completion of the Original Improvements and the Improvements and the payment of all Improvement Costs, including paying of the cost of refunding the Original Notes issued for the Original Improvements, shall be immediately transferred to the Principal and Interest Account.

Section 5.08 **Substitution of Improvements.** The City may elect to substitute or add other improvements paid for with the proceeds of the Notes pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits.** Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in accordance with the laws of the State.

Section 6.02 **Investments.** Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month.

ARTICLE VII
PROVISION FOR PAYMENT OF NOTES

Section 7.01 **Levy and Collection of Annual Taxes.** Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements and Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect

or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (v) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, is not prohibited under the provisions of the applicable Federal law.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification

or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

(A) Extend the Maturity Date of any Note;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;

(C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or

(D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys

and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.02 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.03 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.04 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4811-9771-7518.3

SCHEDULE I

THE ORIGINAL IMPROVEMENTS AND THE IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE SERIES 243 NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Note Ordinance" shall mean Ordinance No. 49-182 of the City, passed by the Governing Body on January 10, 2012, and authorizing and providing for the issuance of the Notes.

"Original Purchaser" means _____, _____, _____, the original purchaser of the Notes.

"Purchase Price" for the Notes shall be the par value of the Notes plus accrued interest to the date of delivery, plus a premium of $_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

The final principal amount of the Notes is $_____.

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

RESOLUTION NO. 12-004

OF THE

CITY OF WICHITA, KANSAS

AS ADOPTED JANUARY 10, 2012

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED $37,995,000

GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES SERIES 250

DATED FEBRUARY 9, 2012

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Schedule I The Original Improvements and the Improvements

Exhibit A Additional Terms of the Notes

RESOLUTION NO. [Res #]

A RESOLUTION PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION RENEWAL AND IMPROVEMENT TEMPORARY NOTES, SERIES 250, OF THE CITY OF WICHITA, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT NOT TO EXCEED $37,995,000, FOR THE PURPOSE OF PROVIDING THE NECESSARY FUNDS FOR THE INTERIM FINANCING OF COSTS IN CONNECTION WITH CERTAIN CAPITAL IMPROVEMENTS IN THE CITY; PRESCRIBING THE TERMS AND DETAILS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE NOTES, AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS WITH RESPECT TO THE NOTES.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), pursuant to the Note Ordinance (as herein defined), has authorized the issuance of the Notes in the aggregate principal amount not to exceed $37,995,000 and provided for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and interest on the Notes; and

WHEREAS, pursuant to and under the authority of various laws of the State of Kansas, the Governing Body of the City has duly taken various actions, including the adoption, and publication where necessary, of resolutions, ordinances and other proceedings as required by said laws, and has authorized and caused to be commenced the construction of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Original Improvements as listed on **Schedule I** are herein collectively referred to as the "Original Improvements"), and of those certain capital improvements in the City described in **Schedule I** which is attached to this Resolution and made a part hereof by reference as though fully set forth herein (which capital improvements identified as Improvements as listed on **Schedule I** are herein collectively referred to as the "Improvements") and has provided that the costs thereof shall be paid, either in whole or in part, by the issuance of general obligation bonds of the City; and

WHEREAS, the Governing Body has further heretofore by the taking of the required proceedings therefor, authorized and issued its General Obligation Renewal and Improvement Temporary Notes, Series 246, dated August 11, 2011 (the "Original Notes"), a portion of the proceeds of which were expended for interim financing for costs of the Original Improvements; and

WHEREAS, the Original Improvements have not been completed and/or are completed but the issuance of bonds for the permanent financing thereof is prevented, hindered or delayed, and the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, renewal temporary notes should be issued for the purpose of renewing and paying a portion of the principal amount of the Original Notes which was issued for costs of the Original Improvements as aforesaid; and

WHEREAS, the Governing Body hereby finds and determines that as provided by K.S.A. 10-123, as amended and supplemented, temporary notes should be issued at this time for the purpose of providing interim financing for the costs of making the Improvements which are or will be newly commenced or for which additional interim financing is now required; and

WHEREAS, in accordance with the provisions of the Note Ordinance, the Governing Body hereby finds and determines that it is necessary to prescribe the terms and details of the Notes pursuant to this Resolution, and to make certain other covenants and agreements with respect thereto;

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions of Words and Terms. In addition to words and terms elsewhere defined in this Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Act" shall mean the Constitution of the State of Kansas (including particularly Article 12, Section 5 thereof), Charter Ordinance Nos. 156 and 78 of the City, K.S.A. 10-101 *et seq.*, K.S.A. 10-123, K.S.A. 12-1736 *et seq.*, K.S.A. 12-6a01 *et seq.*, K.S.A. 12-685 *et seq.*, and K.S.A. 13-1024c, K.S.A. 13-1348a, all as amended and supplemented, under the authority of which the Improvements were authorized, the Original Notes were issued and the Notes are issued.

"Authorized Investments" shall mean those investments authorized by K.S.A. 10-131, as amended and supplemented, and by other provisions of State law applicable to the City.

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

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

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

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the City Clerk's absence (or in the event of a vacancy in such office) any Deputy City Clerk or Acting City Clerk of the City.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor,

together with regulations promulgated thereunder by the United States Department of the Treasury.

"Costs of Issuance" shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Notes, including, but not limited to, publication, printing, signing and mailing expenses, registration fees, fees and expenses of the Fiscal Agent, fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with determining the yield on the Notes or investment of the proceeds of the Notes, and in connection with receiving municipal bond insurance and/or ratings on the Notes. An amount for Costs of Issuance has been factored into the total final cost of each capital improvement comprising the Improvements and the Original Improvements.

"Date of Issuance" shall mean the date on which the Notes are delivered to the Original Purchaser and the City receives from the Original Purchaser the full purchase price therefor.

"Dated Date" shall mean the dated date of the Notes, which is February 9, 2012.

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

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

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the Director of Finance's absence, the duly appointed Assistant Director of Finance or Acting Director of Finance of the City.

"DTC" shall mean The Depository Trust Company and its successors or assigns.

"Excess Earnings Account" shall mean the Excess Earnings Account created pursuant to **Article IV** hereof.

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

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

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

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

"Improvement Account" shall mean the Improvement Account created by **Article IV** hereof.

"Improvement Costs" shall mean the amount of capital expenditures for an Original Improvement and/or an Improvement, including interest during construction, which has been authorized to be paid by the City by an ordinance or resolution of the City, including expenditures made to redeem outstanding notes issued to pay for such improvement and Costs of Issuance of the Notes, less (a) the amount of any notes or bonds of the City which are currently outstanding and available to pay such Improvement Costs and (b) any Improvement Costs which have been previously paid by the City or by any eligible source of funds unless such amounts are entitled to be reimbursed under State and Federal law.

"Improvements" shall mean the newly commenced capital improvements constructed in the City as described on **Schedule I** hereto or any Substitute Improvements.

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

"Interest Payment Date" shall be February 7, 2013.

"Letter of Representation" shall mean that certain Letter of Representation between the City and DTC with respect to the Notes.

"Maturity Date" shall mean February 7, 2013.

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

"Municipal Bond Insurance Policy" shall mean, if applicable, the municipal bond insurance policy issued by Note Insurer insuring the payment when due of the principal of and interest on the Notes as described on **Exhibit A** to this Resolution.

"Note Insurer" shall mean any issuer of a Municipal Bond Insurance Policy described on **Exhibit A** to this Resolution.

"Note Ordinance" shall mean the ordinance of the City authorizing the issuance of the Notes as further described on **Exhibit A** to this Resolution.

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

"Noteowner(s)" shall mean the Owner(s) of the Notes.

"Notes" shall mean the General Obligation Renewal and Improvement Temporary Notes, Series 250, dated February 9, 2012, of the City of Wichita, Kansas, in the principal amount set forth on **Exhibit A** which are authorized by and will be issued pursuant to the authority of the Note Ordinance and this Resolution.

"Original Notes" shall mean the notes previously issued by the City described in the preamble to this Resolution.

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

"Original Purchaser" shall mean the original purchaser of the Notes described on **Exhibit A** to this Resolution.

"Outstanding," when used with reference to the Notes, shall mean, as of a particular date, all Notes theretofore authenticated and delivered under this Resolution, except (i) Notes theretofore canceled by the Fiscal Agent or delivered to the Fiscal Agent for cancellation, (ii) Notes for which moneys for payment or Government Obligations (the principal of and the interest on which Government Obligations, if any, when due, provide sufficient moneys to pay, with such other moneys so deposited with the Fiscal Agent, the principal of and interest on the Notes being paid), or both, in the necessary amount have theretofore been deposited with the Fiscal Agent, or other depository as provided in this Resolution, in trust for the Owners thereof (whether upon or prior to the Maturity Date of the Notes), and (iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Resolution.

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

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

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

"Principal and Interest Account" shall mean the Principal and Interest Account created within the City's Capital Project Fund pursuant to **Article IV** hereof, which is created and shall be held and administered solely for the purpose of receiving and disbursing funds for the payment of the Notes.

"Principal Payment Date" shall mean the Maturity Date.

"Purchase Price" shall mean the original purchase price of the Notes described on **Exhibit A** to this Resolution.

"Record Date" shall mean fifteen days prior to the Maturity Date.

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

"Resolution" or "Note Resolution" shall mean this Resolution adopted by the Governing Body of the City on January 10, 2012, prescribing the terms and details of the Notes.

"State" shall mean the State of Kansas.

"Substitute Improvements" means the substitute or additional improvements authorized pursuant to **Section 5.08** of this Resolution.

"Value" shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month) and shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

ARTICLE II
AUTHORIZATION, ISSUANCE AND DELIVERY OF NOTES

Section 2.01 Authorization of and Security for Notes. Pursuant to the Note Ordinance, the Governing Body has authorized, ordered and directed that in order to provide the necessary funds to provide interim financing for a portion of the Original Improvements and the Improvements, there shall be issued the Notes. In all matters relating to the issuance, registration and delivery of the Notes, the City shall comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

The Notes shall be and constitute valid and legally binding general obligations of the City, and the full faith, credit and resources of the City are pledged by the Note Ordinance and this Note Resolution to the payment of the Notes and the interest thereon. The Notes are payable as to both principal and interest from the collection of special assessment taxes which will be levied against real properties in the City benefiting from certain of the Original Improvements and the Improvements, and from the proceeds of general obligation bonds which will subsequently be issued by the City for such purpose and/or from current revenues of the City available for such purposes, or the Notes may be payable from the proceeds of renewal temporary notes which the City may in the future issue for such purpose.

Section 2.02 Description and Details of Notes. The Notes shall be designated "City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 250." The Notes shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount of the Notes. The Notes shall be dated the Dated Date, shall mature on the Maturity Date, and shall bear interest at the rate set forth on **Exhibit A** to this Resolution. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of 12 30-day months) and such interest shall become due and payable on the Interest Payment Date. The City Manager, the Finance Director, or the City Manager's designee is hereby authorized to approve the final principal amount and Purchase Price for the Bonds as to be set forth on **Exhibit A** to this Resolution provided the final principal amount shall not exceed $37,995,000 which shall be the par value of the Notes unless otherwise indicated on **Exhibit A**, the principal shall mature on the date and at the interest rate shown on **Exhibit A** to this Resolution and such amounts are consistent with the other terms and provisions of this Resolution.

The Notes will initially be distributed in book-entry-only form through DTC, by depositing with DTC (or the Fiscal Agent as agent for DTC) one certificate, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Notes. The manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC,

shall be governed by the Letter of Representation, which the Director of Finance is hereby authorized to execute and deliver on behalf of the City.

Subject to the operational arrangements of DTC, in the event (i) DTC determines not to continue to act as securities depository for the Notes, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of the Notes would adversely affect the interests of the beneficial owners of the Notes, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Notes in the form of fully registered certificates to be authenticated and delivered to the beneficial owners (to the extent such beneficial owners can be identified by the City). If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Note Registrar shall determine.

Section 2.03 Designation of Paying Agent and Note Registrar. Pursuant to K.S.A. 10-620 *et seq.*, as amended and supplemented, the Governing Body has elected to have the provisions of the Kansas Bond Registration Law apply to the Notes.

So long as the Notes remain in book-entry-only form, the Treasurer of the State of Kansas, Topeka, Kansas, has been designated as the initial Paying Agent and Note Registrar for the Notes; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Note Registrars with respect to the Notes upon fifteen (15) days' written notice to the then acting Paying Agent and Note Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Note Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Notes and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following **Section 2.04(A)** and as governed by the terms of the Letter of Representation.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the Fiscal Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City and the Paying Agent will make payment for the Notes directly to the Owners as shown by said Registration Books in the manner set forth in the following **Section 2.04(B).**

Section 2.04 Method and Place of Payment of Principal and Interest on Notes.

(A) Notes Issued and Delivered in Book-Entry-Only Form. One certificate registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Notes will be issued to DTC in New York, New York (or to the Fiscal Agent as agent for DTC) and such certificate will be immobilized in its custody. Purchases of the Notes in denominations permitted by **Section 2.02** hereof must be made by or through Direct Participants of DTC, which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants.

Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

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

Section 2.05 Method of Execution and Authentication of Notes. The Notes shall be executed for and on behalf of the City by the manual or facsimile signatures of its Mayor and City Clerk, and shall have impressed or imprinted thereon a true impression or a printed facsimile of the City's official seal. The Notes shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk, on a Certificate of Registration printed on the Notes, with the City's official seal or a facsimile thereof, impressed or imprinted opposite said signature. The Notes shall be registered by the State Treasurer in the municipal bond register in the State Treasurer's office, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer and/or the Assistant State Treasurer on a Certificate of State Treasurer printed on the Notes, attested by a true impression or a printed facsimile of the State Treasurer's official seal opposite such signature. Additionally, the Notes shall be countersigned by the manual or facsimile signature of the City Clerk, which countersignature shall be attested by the City's official seal affixed or imprinted opposite said countersignature.

In case any officer of the City or of the State whose manual or facsimile signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Note shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon shall have been duly executed by the Fiscal Agent, and such duly executed Certificate of Authentication shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication shall be deemed to have been duly executed by the Fiscal Agent when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Fiscal Agent manually sign the Certificate of Authentication on all Notes issued under the Note Ordinance and this Resolution.

Section 2.06 Payment of Costs of Notes. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration and payment of the Notes, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Note or Notes mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration or payment of the Notes, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 2.07 Form of Notes. The definitive typewritten or printed form of the certificates representing the Notes issued under this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State of Kansas, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act and for the interim financing of portions of the Improvements and the Original Improvements. The Governing Body hereby approves the form and text of the certificates to be prepared for the Notes, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Notes and hereby further authorizes, orders and directs Bond Counsel, in the event the Notes in certificated form are issued at any time after the initial issuance and delivery of the Notes, to prepare the form of and cause such certificated Notes to be printed.

Section 2.08 Registration, Transfer and Exchange of Notes. In the event the Notes are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Notes as provided in this Resolution to be kept by the Note Registrar (the "Registration Books"), and the Notes may be transferred only upon the Registration Books and upon the surrender thereof to the Note Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Note Registrar. Upon the surrender for transfer of any certificated Note at its office, the Note Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Note or Notes of authorized denominations in the aggregate principal amount of the surrendered certificated Note. The Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

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

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

Notes delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Notes surrendered, shall be secured by the Note Ordinance and

this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Notes surrendered. The person(s) in whose name any Note is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Note shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as the Notes remain issued in book-entry-only form, DTC shall be considered to be the Owner of the Notes, and such payments shall be made only to DTC in accordance with **Section 2.04(A)** of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 2.09 Mutilated, Lost, Stolen or Destroyed Notes. In the event any certificate representing a Note is mutilated, lost, stolen or destroyed, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Fiscal Agent, and, in the case of any lost, stolen or destroyed Note there shall first be furnished to the Fiscal Agent and the City, evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Fiscal Agent. In the event any such Note shall have matured, instead of issuing a duplicate note the City may pay the same without the surrender thereof. The City and the Fiscal Agent may charge to the Owner of such Note their reasonable fees and expenses in connection with the replacement of such Note or Notes.

Section 2.10 Surrender and Cancellation of Notes. Whenever any Outstanding Note shall be delivered to the Fiscal Agent after full payment thereof or for replacement pursuant to this Resolution, such Note shall be canceled and destroyed by the Fiscal Agent and counterparts of a Certificate of Destruction describing Notes so destroyed and evidencing such destruction shall be furnished by the Fiscal Agent to the City, or such Note shall be canceled and the canceled Note shall be returned to the City.

Section 2.11 Execution and Delivery of Notes. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Notes without unnecessary delay in the form and manner hereinbefore specified, including a reasonable quantity of replacement note certificates for use in exchanges, transfers and replacements in accordance with the provisions of this Resolution and when executed the Notes shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When the Notes shall have been so executed, registered and authenticated, they shall be delivered at one time to or upon the order of the Original Purchaser, but only upon receipt by the City of the Purchase Price therefor and the proceeds of the Notes shall immediately be applied by the City as hereinafter in this Resolution provided.

Section 2.12 Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared for use in the initial offering and sale of the Notes, and the form and content of any addenda, supplement, or amendment thereto necessary to conform the offering document to the terms of this Resolution, to include information newly available due to assignment of ratings by one or more rating

agencies, or incorporate such other minor corrections or additions as may be approved by the City's Debt Coordinator, including specifically the insertion of interest rates and yields for the Notes. The lawful use of the final Official Statement in the reoffering of the Notes by the Original Purchaser is hereby approved and authorized.

ARTICLE III
REDEMPTION OF NOTES

Section 3.01 **Optional Redemption**. At the option of the City, the Notes may be called for redemption and payment prior to their stated maturity, in whole or in part, on and after August 9, 2012 (the date being so set for redemption and payment being referred to as the "Redemption Date"). Notes called for redemption and payment as aforesaid shall be redeemed at a price (expressed as a percentage of the principal amount), of 100% of the principal amount, plus accrued interest to the Redemption Date.

Section 3.02 **Selection of Notes to be Redeemed**. The Notes shall be redeemed only in face amounts of $5,000 or integral multiples thereof and if the City elects to call for redemption less than all of the Notes at the time Outstanding, the Notes shall be redeemed in such equitable manner as the City shall determine, with Notes of less than a full maturity to be selected by lot in units of $5,000.

In the case of a partial redemption of Notes by lot when Notes of denominations greater than $5,000 are then Outstanding, then, for all purposes in connection with such redemption, each $5,000 of face value of a Note shall be treated as though it were a separate Note in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Note has been selected for redemption, then upon receipt of notice of such redemption, the Owner shall forthwith present and surrender such Note to the Fiscal Agent (i) for payment of the redemption price and accrued interest to the Redemption Date of the $5,000 unit or units of face value of the Note called for redemption, and (ii) for exchange, without charge to the Owner, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Owner of any Note of a denomination greater than $5,000 of which one or more, but not all, of the $5,000 units of face value thereof has been selected for redemption shall fail to present such Note as aforesaid, the $5,000 units of the face value of such Note which have been selected for redemption shall, nevertheless, become due and payable on the Redemption Date, and no further interest shall accrue on such redeemed but unpresented $5,000 units of face value from and after the Redemption Date.

Section 3.03 **Notice of Redemption**. Unless waived by the Fiscal Agent, the City shall give notice of any call for redemption and payment in writing to the Fiscal Agent not less than forty-five (45) days prior to the Redemption Date; and the Fiscal Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Notes so called not less than thirty (30) days prior to the Redemption Date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice.

All notices of redemption given under the provisions of this Article shall state (i) the Redemption Date, (ii) the redemption price, (iii) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed, (iv) that on the Redemption Date the principal amount, and premium, if any, will become due and payable upon each such Note or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the Redemption Date, and (v) that the Notes so selected for redemption are to be surrendered to or at the principal office of the Fiscal Agent for payment.

Section 3.04 **Deposit of Moneys for and Payment of Redemption Price**. On or prior to the Redemption Date, the City shall cause to be deposited with the Fiscal Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the Redemption Date, of all Notes or portions thereof selected for redemption on the Redemption Date. Upon the surrender by the Owners of Notes selected for redemption, the Fiscal Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the $5,000 units of face value represented by any Note is selected for redemption and surrendered and paid, then the Fiscal Agent shall prepare and furnish to the Owner thereof a new Note or Notes in the amount of the unredeemed portion of such Note as provided by **Section 3.02** above. All Notes selected, called and surrendered for redemption shall be canceled by the Fiscal Agent and shall not be reissued.

Section 3.05 **Effect of Call for Redemption**. Whenever any Note, or one or more of the $5,000 units of face value represented by any Note, has been selected for redemption and payment as provided in this Article, all interest on such Note, or such one or more of the $5,000 units of face value represented by any such Note, shall cease from and after the Redemption Date, provided funds are then available for its payment at the price hereinbefore specified.

ARTICLE IV
FUNDS AND ACCOUNTS

Section 4.01 **Creation of Funds and Accounts.** Simultaneously with the issuance and delivery of the Notes, there shall be created within the Treasury of the City, the following designated funds and accounts:

(A) Improvement Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 250;

(B) Principal and Interest Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 250, to be created within the City's Capital Project Fund; and

(C) Excess Earnings Account for the City of Wichita, Kansas, General Obligation Renewal and Improvement Temporary Notes, Series 250.

Section 4.02 **Administration of Funds and Accounts.** The funds and accounts established and created by this Article shall be administered in accordance with the provisions of this Resolution for so long as any of the Notes remain Outstanding.

ARTICLE V
APPLICATION OF NOTE PROCEEDS; DISPOSITION OF MONEYS IN FUNDS AND ACCOUNTS

Section 5.01 Application of Note Proceeds. Upon the issuance and delivery of the Notes, the proceeds thereof shall be deposited into the Treasury of the City and credited to the various funds and accounts created by **Article IV** of this Resolution, as follows:

(A) To the Principal and Interest Account, the portion of the Purchase Price which represents accrued interest paid on the Notes and the purchase price premium, if any, shown on **Exhibit A** to be deposited in the Principal and Interest Account; and

(B) The balance of the proceeds to the Improvement Account.

Section 5.02 Disposition of Principal and Interest Account. Moneys deposited in the Principal and Interest Account from the proceeds of the Notes as provided by clause (A) of the preceding Section, shall be used exclusively for the payment of interest on the Notes on the first Interest Payment Date. Moneys deposited in the Principal and Interest Account from other sources, as provided by the succeeding Sections or elsewhere in this Resolution, shall be used exclusively for the payment of the principal of and the interest on the Notes, and for payment of the usual and customary fees and expenses of the Fiscal Agent.

Upon the issuance of the City's general obligation bonds and/or future renewal temporary notes, as the case may be, for the purpose of paying the Notes, or any portion thereof, the proceeds from such general obligation bonds and/or renewal temporary notes shall be deposited into the Principal and Interest Account. Any other sums of moneys which are designated for payment of the costs of the Notes, if any, shall likewise be deposited into the Principal and Interest Account.

Section 5.03 Withdrawals from Principal and Interest Account; Transfer of Funds to Fiscal Agent. The Director of Finance is hereby authorized and directed to cause to be withdrawn from the Principal and Interest Account and forwarded to the Fiscal Agent, a sum sufficient in amount to pay the principal of and the interest on the Notes on the Maturity Date, together with such sum as may be required to pay the fees and charges of the Fiscal Agent, if any, for acting in such capacity, and the sum for charges of the Fiscal Agent shall be forwarded to the Fiscal Agent over and above the amount required to pay the Notes as aforesaid. If, through the lapse of time or otherwise, the Owner of any Note shall no longer be entitled to enforce payment of such Note, it shall be the duty of the Fiscal Agent to forthwith return such unexpended funds to the City. All moneys transferred to the Fiscal Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution, and shall be deemed to be deposited with the Fiscal Agent in trust for and on behalf of the Owners of the Notes.

Section 5.04 **Surplus in Principal and Interest Account.** Any moneys remaining in the Principal and Interest Account, from whatever source, from and after the retirement of all general obligation note issues of the City shall be transferred and paid into the General Fund of the City.

Section 5.05 **Disposition of Improvement Account.** Moneys in the Improvement Account shall be used solely for the purpose of paying the Improvement Costs including paying a portion of the cost of refunding the Original Notes issued for the Original Improvements. The City covenants that in the making of the Improvements, it will perform all duties and obligations relative to such Improvements as are now or may be hereafter imposed by the Act and the provisions of this Resolution.

Section 5.06 **Withdrawals from Improvement Account.** Withdrawals from the Improvement Account shall be made only for a purpose within the scope of the Improvements, and as payment for Improvement Costs and the amount of such payments shall represent only the contract price or reasonable value of the property, labor, materials, service or obligations being paid for, or if such payment is not being made pursuant to an express contract, such payments shall not be in excess of the reasonable value thereof.

Section 5.07 **Surplus in Improvement Account.** All moneys remaining in the Improvement Account after the completion of the Original Improvements and the Improvements and the payment of all Improvement Costs, including paying a portion of the cost of refunding the Original Notes issued for the Original Improvements, shall be immediately transferred to the Principal and Interest Account.

Section 5.08 **Substitution of Improvements.** The City may elect to substitute or add other improvements paid for with the proceeds of the Notes pursuant to this Section provided the following conditions are met: (a) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Improvement Costs of the Substitute Improvement has been adopted by the Governing Body of the City, (c) the Attorney General of the State has approved the amendment to the transcript of proceedings for the Bonds to include the Substitute Improvement and (d) the City has received an opinion of Bond Counsel to the effect that the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law and the Substitute Improvement has been authorized pursuant to this Section and the laws of the State.

ARTICLE VI
DEPOSITS AND INVESTMENT OF MONEYS

Section 6.01 **Deposits.** Cash moneys in each of the funds and accounts created and established by this Resolution shall be deposited in accordance with the laws of the State.

Section 6.02 **Investments.** Moneys held in the funds and accounts created and established by this Resolution may be invested by the City in Authorized Investments, or in other investments allowed by the laws of the State, in such amounts and maturing at such times as

shall reasonably provide for moneys to be available when required in said funds and accounts; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys so invested may be needed in the fund or account for the purpose for which it was created and established; and provided further, that such moneys shall not be invested in such manner as will violate the provisions of the Certificate as to Arbitrage and Related Tax Matters. All interest on any Authorized Investment made from the moneys in any fund or account created and established by this Resolution shall (except the amounts which are required to be deposited into the Excess Earnings Account in accordance with the Certificate as to Arbitrage and Related Tax Matters) accrue to and become a part of such originating fund or account. The Value of the investments held in the funds and accounts under the provisions of this Resolution, shall be determined as of the end of each calendar month. All investments made pursuant hereto shall be made in accordance with the Certificate as to Arbitrage and Related Tax Matters.

Section 6.03 Deposits Into and Application of Moneys in Excess Earnings Account.

(A) The City shall deposit into the Excess Earnings Account such amounts as are required to be deposited therein pursuant to the Certificate as to Arbitrage and Related Tax Matters. All earnings on investments of moneys held in the Excess Earnings Account shall be retained in the Excess Earnings Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Excess Earnings Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Certificate as to Arbitrage and Related Tax Matters), for payment to the United States of America, and neither the City nor the Owner of any Note shall have any right in or claim to such money. All amounts held in the Excess Earnings Account shall be governed by this Section and by the Certificate as to Arbitrage and Related Tax Matters.

(B) The City shall remit part or all of the balances in the Excess Earnings Account to the United States of America in accordance with the Certificate as to Arbitrage and Related Tax Matters (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Excess Earnings Account after payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Excess Earnings Account and shall be deposited into the City's General Fund.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Certificate as to Arbitrage and Related Tax Matters shall survive the defeasance or payment in full of the Notes.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Certificate as to Arbitrage and Related Tax Matters for at least six (6) years after the date on which no Notes shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Excess Earnings Account and any Rebate Amount are set forth in a Certificate as to Arbitrage and Related Tax Matters dated as of the Date of Issuance. The form and text of the Certificate as to Arbitrage and Related Tax Matters is hereby approved and accepted by the

Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or Director of Finance, as appropriate, or such other officer as may be directed by the Mayor, shall be and are hereby authorized to execute and deliver the Certificate as to Arbitrage and Related Tax Matters for and on behalf of the City. The entire text of the Certificate as to Arbitrage and Related Tax Matters is by reference hereby incorporated in and made a part of this Resolution as though fully set forth at this place.

ARTICLE VII
PROVISION FOR PAYMENT OF NOTES

Section 7.01 Levy and Collection of Annual Taxes. Pursuant to the Note Ordinance, the Governing Body covenants that it shall make provision for the payment of the principal of and the interest on the Notes on the Maturity Date by the issuance of renewal temporary notes for that purpose or by the issuance of general obligation bonds of the City, as is warranted by the circumstances then existing; and further provided, that if the proceeds of such renewal temporary notes or general obligation bonds are insufficient to fully pay the maturing principal of and interest on the Notes on the Maturity Date, then said Governing Body shall levy ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City in such amounts as are necessary to rectify any deficiency in the amounts available for the payment of the Notes. In lieu of issuing renewal temporary notes or general obligation bonds of the City to fund costs of the Original Improvements and Improvements which are to be paid by the City-at-large, the Governing Body may elect to pay said costs, or any portion thereof, from otherwise unencumbered funds or current revenues of the City which are lawfully available for such purpose.

Section 7.02 Disposition of Taxes; Untimely Receipt. The proceeds derived from the various sources identified in the preceding Section shall be deposited into the Principal and Interest Account when received; and shall be used to pay the principal of and the interest on the Notes on the Maturity Date; provided, if on the Maturity Date the amount in the Principal and Interest Account shall be insufficient to make the payments of the principal of and the interest on the Notes because of an untimely collection and/or receipt of moneys from said sources, the Director of Finance is authorized to cause to be transferred to the Principal and Interest Account from the City's general funds, the amount required for such payments and to then reimburse the City's general funds for such expended amounts immediately upon the collection and receipt of said moneys.

ARTICLE VIII
DEFAULT AND REMEDIES

Section 8.01 Resolution Constitutes Contract; Remedies of Owners. The provisions of the Note Ordinance and this Resolution, and all of the covenants and agreements therein and herein contained, shall constitute a contract between the City and the Owners, and the Owner or Owners of any of the Notes at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceedings at law or in equity to enforce his or their rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of the Note Ordinance and this Resolution or by the constitution and laws of the State;

(B) By suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(C) By suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners.

Section 8.02 Rights of Owners; Limitations. The covenants and agreements of the City contained herein, in the Note Ordinance and in the Notes shall be for the equal benefit, protection and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of any one Note over any other Note in the application of the moneys herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as provided in this Resolution.

No one or more of the Owners secured hereby shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Outstanding Notes. Nothing in this Resolution, in the Note Ordinance or in the Notes shall affect or impair the obligations of the City to pay on the respective dates of maturity thereof, the principal of and the interest on the Notes to the respective Owners thereof or affect or impair the right of action of any Owner to enforce payment of the Notes held by him, or to reduce to judgment his claim against the City for payment of the principal of and interest on the Notes without reference to or consent of any other Owner.

Section 8.03 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon the Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy however given. No waiver by the Owner of any Note of any default or breach of duty or contract by the City shall extend to or affect any subsequent default or breach of duty or contract by the City or shall impair any rights or remedies therefor available to the Owners. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or as an acquiescence therein. Every substantive right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or other proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies,

powers and duties of the Owners shall continue as though no such suit, action or other proceedings had been brought or taken.

ARTICLE IX
AMENDMENTS

Section 9.01 Amendments. The City may, without the consent of or notice to the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision herein which may be inconsistent with any other provision herein or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security that may lawfully be granted or conferred upon the Owners, or (iii) to more precisely identify improvements, or (iv) to provide for the issuance of coupon Notes and the exchange of the fully registered Notes for coupon Notes upon such terms and conditions as the City shall determine; provided, however, that any amendment as provided in this clause (v) shall not become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon notes or the exchange of the fully registered Notes for such coupon notes, will not cause the interest on the Notes to be includable in the gross income of recipients thereof under the provisions of the applicable Federal law, or (vi) to conform this Resolution to the Code or any future applicable Federal law concerning tax-exempt obligations.

The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, no such modification or alteration shall, except with the written consent of one hundred percent (100%) of the Owners of the Notes then Outstanding:

(A) Extend the Maturity Date of any Note;

(B) Effect a reduction in the amount which the City is required to pay by way of the principal of or the interest on any Note;

(C) Permit a preference or priority of any Note or Notes over any other Note or Notes; or

(D) Reduce the percentage of the principal amount of the then Outstanding Notes for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Section 9.02 Written Evidence of Amendments. Any and all modifications or amendments to this Resolution or of the Notes shall be made in the manner hereinabove provided, and shall not become effective until there has been filed with the City Clerk a copy of the resolution of the City authorizing said modifications or amendments, as hereinabove provided for, duly certified, as well as proof of consent to such modifications or amendments by

the Owners of not less than the percentage of the principal amount of Notes then Outstanding as hereinabove required. It shall not be necessary to note on any Outstanding Note any reference to such amendment or modification.

A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Note Ordinance and this Resolution, shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owner of any Note or the prospective purchaser or owner of any Note, and upon payment of the reasonable cost of preparing same, a certified copy of any such amendatory or supplemental ordinance or resolution of the Note Ordinance or this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

ARTICLE X
DEFEASANCE

Section 10.01 Defeasance. When all or any part of the principal of and the interest on the Notes shall have been paid and discharged, then the requirements contained herein and all other rights granted by the Note Ordinance and this Resolution shall cease and determine with respect to that principal and interest so paid. The Notes shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Fiscal Agent or with a bank located in the State of Kansas and having full trust power; at or prior to the Maturity Date of the Notes, in trust for and irrevocably appropriated thereto, moneys and/or Government Obligations consisting of direct obligations of, or obligations the payment of the principal of and the interest on which are guaranteed by, the United States of America, or other investments allowed by the laws of the State, which together with the interest to be earned on such Government Obligations or other investments, will be sufficient for the payment of the principal of the Notes and the interest thereon to the Maturity Date; or if default in such payment shall have occurred on such date, then to the date of the tender of such payments. Any moneys and Government Obligations which at any time shall be deposited with the Fiscal Agent or a Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Notes or interest thereon, shall be and are hereby assigned, transferred and set over to the Fiscal Agent or such Kansas bank in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Government Obligations so deposited with the Fiscal Agent or a Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Notes remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Notes under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and

regulations of the United States Treasury Department thereunder, to the extent applicable to the Notes.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Notes for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Notes or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Notes to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and that to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Notes for so long as any of the Notes remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Notes from time to time. This covenant shall survive payment in full or the defeasance of the Notes and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amount as described in the Certificate as to Arbitrage and Related Tax Matters.

Section 11.02 Severability. In case any one or more of the provisions of the Note Ordinance, this Resolution or of the Notes issued thereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Note Ordinance, this Resolution or the Notes appertaining thereto, but the Note Ordinance, this Resolution and the Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Notes or in the Note Ordinance or this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 11.03 Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Notes, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Notes, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and

deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby.

The execution and attestation of this Resolution and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Notes and the Official Statement.

Section 11.04 Governing Law. This Resolution, the Note Ordinance and the Notes shall be governed exclusively by and shall be construed in accordance with the applicable laws of the State.

Section 11.05 Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval by the Governing Body of the City.

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ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on January 10, 2012.

_____
Carl Brewer, Mayor

(Seal)

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

4812-8166-9134.1

SCHEDULE I

THE ORIGINAL IMPROVEMENTS AND THE IMPROVEMENTS

EXHIBIT A

ADDITIONAL TERMS OF THE SERIES 250 NOTES

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Note Ordinance" shall mean Ordinance No. [Ord #] of the City, passed by the Governing Body on January 10, 2012, and authorizing and providing for the issuance of the Notes.

"Original Purchaser" means _____, _____, _____, the original purchaser of the Notes.

"Purchase Price" for the Notes shall be the par value of the Notes plus accrued interest to the date of delivery, plus a premium of $_____.

Interest Rate. The Notes shall bear interest at the rate of _____% per annum.

The final principal amount of the Notes is $_____.

Amount of purchase price premium to be deposited in the Principal and Interest Account is $_____.

Approved by:

_____
Title: _____
City of Wichita, Kansas

Agenda Item No. V-1

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: CUP2011-00031 – Amendment #1 to DP-197 the Greystone Community Unit Plan located on property generally located southeast of the intersection of West 21st Street North and North Maize Road. (District V)

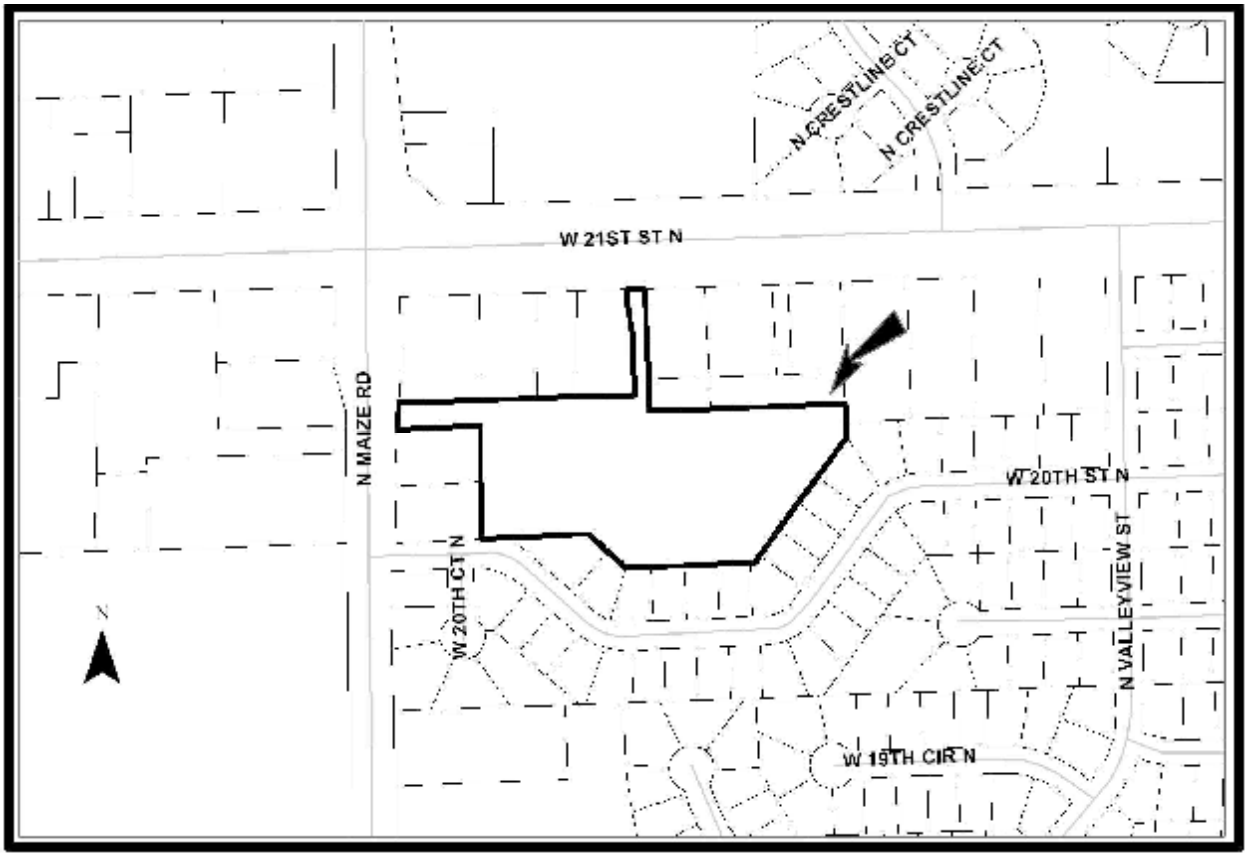
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

November 7, 2011 DAB Recommendation: Approve per staff recommendation as modified by MAPC, plus a requirement that the façade be sixty percent brick or masonry (8-0).

MAPC Recommendations: Approve, subject to modified conditions (11-2).

MAPD Staff Recommendations: Approve, subject to conditions.



BACKGROUND: The applicant is requesting DP-197 Greystone Community Unit Plan ("CUP") Amendment #1 to allow multi-family residential use on Parcel 1 and to reduce the platted setback (for one-story garages) from 35 feet to 10 feet. An apartment complex (138 units) is proposed on a 6.3-acre tract located south of 21st Street North and east of Maize Road. It should be noted that although the CUP amendment can indicate the intent to reduce a platted setback, the vacation process will have to be completed before the CUP amendment can be made final.

Currently the tract is zoned LC Limited Commercial ("LC") and allows a variety of commercial type uses, stated as follows: "Proposed General Uses: Retail uses, liquor stores, financial institutions, restaurants (except drive-up or drive through restaurants), offices, private clubs, and shopping center facilities." The parcel is situated behind a solid string of uses along Maize Road and 21st Street North that nearly block the view of this parcel from the arterial streets. The six other parcels contain a variety of commercial uses, including fast-food (McDonalds) at the hard corner, a multi-tenant commercial building, a free-standing liquor store and a bank to the north along 21st Street North. Another multi-tenant commercial building is located on the CUP along Maize Road. The uses are fairly evenly split between restaurants, personal care services, bank, retail and offices.

Access to Parcel 1 would be from two private drive openings, one of which is located between Parcel 2 (McDonalds) and Parcel 3 (commercial building) onto Maize Road and the other of which is between Parcel 6 (commercial building) and Parcel 7 (the liquor store) onto 21st Street North. No access is permitted to the south and the property does not connect to Valleyview Drive to the east.

Maximum building coverage and gross floor area would be 30 percent. Maximum height is 35 feet. The site plan shows 13 buildings (six apartment buildings, one to two clubhouse buildings and five to six garage structures). The proposed change would require allowing the option of multiple buildings instead of one large commercial structure. A proposed rendering shows a three-story building.

Parcel 1 setbacks are not shown on the existing CUP drawing, but are required to be 35 feet per Unified Zoning Code ("UZC") CUP standards for the perimeter property lines that abut residential zoning. The plat did include a platted setback of 35 feet along the south and east property lines of Lot 5, Timber Ridge 4th Addition, which includes the subject parcel.

Multi-family residential is considered less intensive by the UZC hierarchy than the proposed potential uses currently proposed for the parcel. However, since none of the proposed general uses of the CUP are residential in nature, and due to opposition expressed by neighborhood residents when multi-family use was requested to be included by administrative adjustment, the proposed change is being reviewed by amendment to the CUP.

The intersection of 21st Street North and Maize Road is a major retail corridor anchored by New Market Square on Maize Road, a Dillons MarketPlace directly across 21st Street North, and other commercial uses to the north and west of the intersection, located on property zoned mostly LC, with some pockets of GC General Commercial ("GC"). The abutting property to the northeast is zoned GO General Office ("GO") and developed with four free-standing offices. Single-family homes are located to the east and south on property zoned SF-5 Single-Family Residential ("SF-5"). A large church is located across Maize Road to the southwest, also zoned SF-5.

Analysis: At its regular meeting on October 20, 2011, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. Nine individuals spoke in opposition to the proposal. Those who spoke in opposition cited the following concerns: a perceived lower level of maintenance provided to multi-family complexes when compared to single-family homes; the proposed three-story apartments will allow direct view into the back yards of single-family homes; single-family home values will decrease due to the apartment project; existing roadways and access points are not adequate now, increased traffic from the project will increase congestion and degrade road safety; commercial uses close, apartments have 24-hour seven-day a week activity; apartments will increase emergency service calls; the project will further exacerbate existing poor drainage and the developer cannot be trusted to build what he says he will build. There was considerable discussion between

planning commissioners, staff and the applicant regarding the depth of the building setback and the number of units. The applicant proposed a setback of ten feet while staff recommended thirty-five feet. The applicant indicated they needed 130 units to make the project economically feasible, and asked for approval of up to 138 units. The action of the MAPC was to approve the request (11-2) subject to the following conditions:

1. Density shall be limited to 22 dwelling units per acre or 130 dwelling units, whichever is less.
2. An additional condition shall be added to General Provision #4 to limit signage for Parcel 1 to signs permitted by the Wichita Sign Code for the MF-29 zoning district.
3. The building setback (for one-story garages) shall be reduced from 35 feet to 10 feet for the south and east property line with provision for maintaining the screening wall and landscaping per approval of the Planning Director.
4. Maximum number of buildings shall be 15.
5. The buffer of trees on the south and east property lines shall be provided at a rate of one tree per 27.5 feet of property line by evergreen or deciduous trees, with at least one-third of the trees being evergreen, in addition the screening wall shall be eight feet in height and otherwise in compliance with General Provision #5.
6. No lighting trespass shall be permitted to spill from the site to the residential zoned areas to the south and east.
7. Noise shall be restricted to that allowed upon property zoned as residential.
8. Access shall be prohibited to 20th Street North and Valleyview Street.
9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
10. 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.
11. 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.

District Advisory Board V reviewed the request on November 7, 2011. Approximately twelve individuals expressed concerns with the project's impact on: traffic congestion, property value, emergency vehicle access, crime and drainage. A question was asked if the project would include subsidized units, such as Section 8 assistance. District Advisory Board V recommended approval (8-0) per staff comments except as modified by the MAPC recommendation, plus the requirement that the façade of the buildings be at least 60 percent brick or masonry.

The Wichita City Council heard this item on December 6, 2011. The action of the Council was to defer the item to the Wichita City Council scheduled meeting on January 10, 2012, and return the request to District Advisory Board (DAB) V on January 9, 2012. Planning Staff will verbally brief the DAB V recommendation from their January 9, 2012, hearing to the Council on January 10, 2012.

Numerous property owners located generally within one-quarter mile of the application area have filed appeals. Unlike zoning or Conditional Use applications, the Unified Zoning Code does not require CUP amendments not associated with a zone change to be subject to the twenty percent protest requirement that triggers a three-fourths majority vote requirement. Instead of the protest process, CUP amendments are subject to the appeals process that requires the City Council to hear the request, but does not carry the three-fourths voting requirement. Therefore, the City Council may approve the request with a simple majority.

Financial Considerations: Approval of this request will not create any extraordinary financial considerations for the City of Wichita.

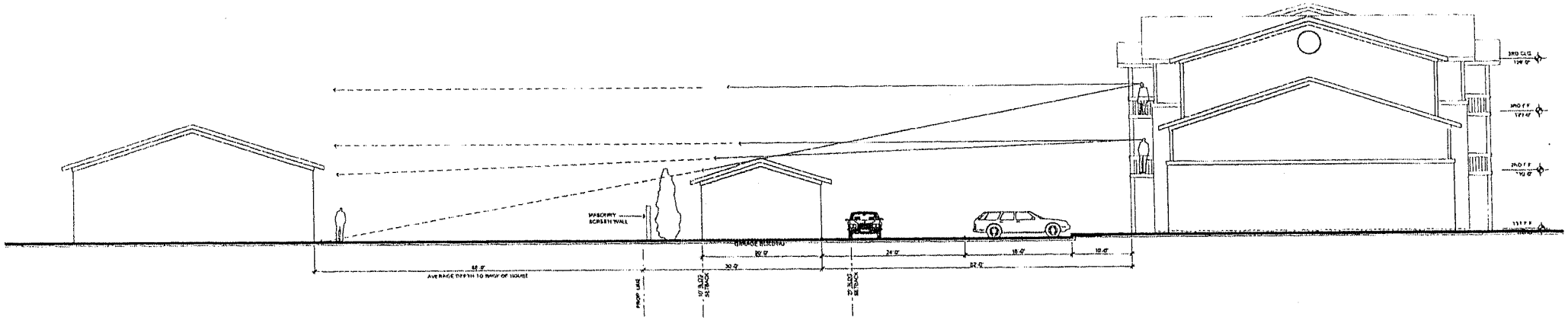
Goal Impact: The application will assist with the implementation of one of the City's goal to promote Economic Vitality.

Legal Considerations: There are no ordinances or resolutions associated with this application.

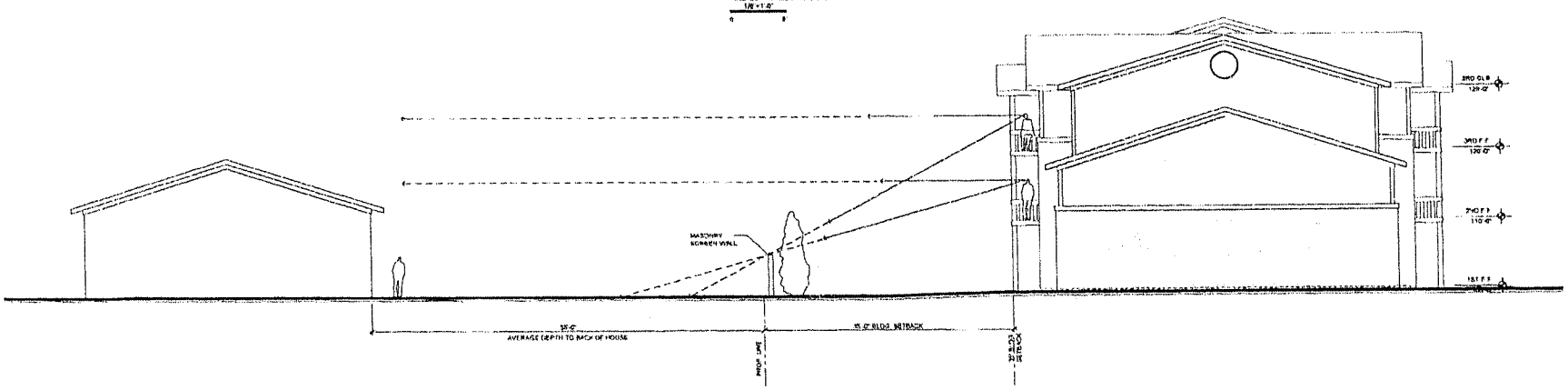
Recommendation/Actions:

1) Adopt the findings of the MAPC and approve Amendment #1 to DP-197 subject to the recommended conditions, based upon the findings found in the staff report (simple majority vote required); 2) deny the request by making alternate findings (two-thirds majority vote required) or 3) return the application to the MAPC for further consideration (simple majority vote required).

Attachments:
Proposed apartments site section w/garage structures
Elevation study
CUP drawing
Master site plan, November 4, 2011
Site elevation at garage, November 6, 2011
E-mail regarding Beverly Killian
MAPC minutes
DAB minutes
Appeals map



SITE SECTION - W/GARAGE STRUCTURES



SITE SECTION - 35' BLDG. SETBACK

SPANGENBERG PHILLIPS TICE
ARCHITECTURE
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T 316.267.4002 F 316.267.1509
www.sptarchitecture.com

PROPOSED APARTMENTS - 21ST & MAIZE

WICHITA KS

SS

12 SEI

ELEVATION STUDY

SPANGENBERG PHILLIPS TICE
ARCHITECTURE
121 N Mead St 201 Wichita KS 67202
tel 316 267 4002 fax 316 267 1009
spt architecture.com

PROPOSED APARTMENTS - 21ST AND MAIZE RD.

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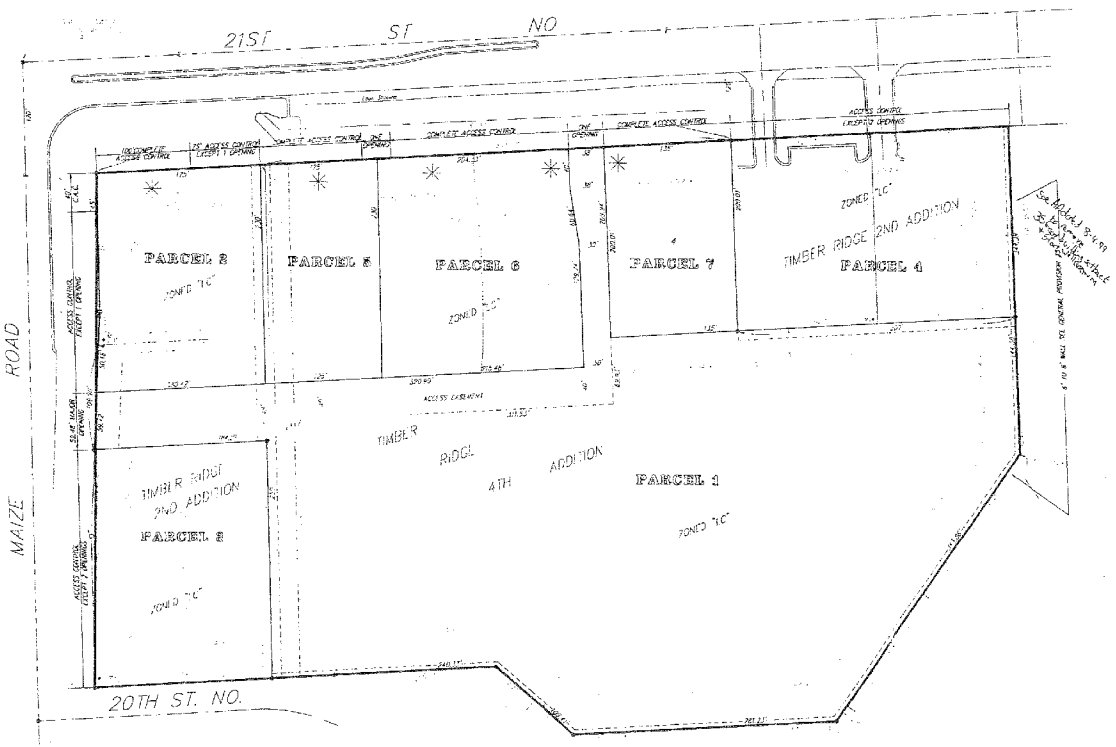
14 JUN 11



PARCEL DESCRIPTIONS

PARCEL #1

A. Net Area	292,185 sq.ft. or 6.73 acres
B. Maximum Building Coverage	87,657 sq.ft. 30%
C. Maximum Gross Floor Area	87,657 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	One(1)
G. Building Setbacks	See Drawing
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	One to 21st Street and One to Maize Road
J. Proposed General Uses: Retail uses, liquor stores, financial institutions, restaurants (except drive-up or drive-through restaurants), offices, private clubs, and shopping center facilities.	

PARCEL #2

A. Net Area	40,468 sq.ft. or 0.93 acres
B. Maximum Building Coverage	12,140 sq.ft. 30%
C. Maximum Gross Floor Area	12,140 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	One(1)
G. Building Setbacks	35 feet (Maize Road) 35 feet (21st Street)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	See Drawing
J. Proposed General Uses: Service Stations and associated car wash with BZA approval, retail uses, financial institutions, and offices	

PARCEL #3

A. Net Area	49,548 sq.ft. or 1.14 acres
B. Maximum Building Coverage	14,860 sq.ft. 30%
C. Maximum Gross Floor Area	14,860 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	Two(2)
G. Building Setbacks	35 feet (Maize Road)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	Two to Maize Road
J. Proposed General Uses: Retail uses, liquor stores, financial institutions, restaurants (except drive-up or drive-through restaurants on the south half of the parcel), and offices.	

PARCEL #4

A. Net Area	60,000 sq.ft. or 1.34 acres
B. Maximum Building Coverage	18,000 sq.ft. 30%
C. Maximum Gross Floor Area	18,000 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	Three(3)
G. Building Setbacks	35 feet (21st Street)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	Two to 21st Street
J. Proposed General Uses: Indoor retail uses, restaurants (Except drive-up and drive-through on the east half of the parcel), and offices	

PARCEL #5

A. Net Area	29,141 sq.ft. or 0.66 acres
B. Maximum Building Coverage	8,832 sq.ft. 30%
C. Maximum Gross Floor Area	8,832 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	One(1)
G. Building Setbacks	35 feet (Maize Road)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	See Drawing
J. Proposed General Uses: Service Stations and associated car wash with BZA approval, retail uses, financial institutions, and offices	

PARCEL #6

A. Net Area	48,671 sq.ft. or 1.10 acres
B. Maximum Building Coverage	14,505 sq.ft. 30%
C. Maximum Gross Floor Area	14,586 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	One(1)
G. Building Setbacks	35 feet (Maize Road)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	See Drawing
J. Proposed General Uses: Service Stations and associated car wash with BZA approval, retail uses, financial institutions, and offices	

See DP-197 dated 4-2-97 for location of buildings and building pads

PARCEL #7

A. Net Area	27,000 sq.ft. or 0.62 acres
B. Maximum Building Coverage	8,150 sq.ft. 30%
C. Maximum Gross Floor Area	8,100 sq.ft. 30%
D. Floor Area Ratio	30%
E. Maximum Building Height	35 feet
F. Maximum Number of Buildings	One(1)
G. Building Setbacks	35 feet (Maize Road)
H. Parking Ratio as per Zoning Ordinance	Section 28.04.140
I. Access Points	See Drawing
J. Proposed General Uses: Service Stations and associated car wash with BZA approval, retail uses, financial institutions, and offices	

GENERAL PROVISIONS

1. Total Net Land Area = 548,011 sq.ft. or 12.5 acres
2. The proposed development contains seven (7) parcels for limited commercial uses. For specific uses, see parcel descriptions.
3. Setbacks are as indicated on this drawing and as stated in the parcel descriptions. In the event contiguous parcels are developed under the same ownership, setbacks between those parcels shall not be required unless separate buildings are constructed.
4. Signs shall be as permitted by chapter 24.04 of the code of the City of Wichita, except that no off-site or portable signs shall be permitted. Additionally, signage along 21st Street and the south 200 feet of the C.U.P. shall be limited as follows:
   A. No ground or pole sign shall exceed 18 feet in height or 50 square feet in area. General sign locations are indicated on on the drawing.
   B. Parcels no. 3 and 4 are limited to 2 ground or pole signs each.
   C. No flashing, rotating or moving signs, signs with moving lights or lights that create the illusion of movement are permitted, except for date, time, temperature, or other public service messages.
5. A six (6) to eight (8) foot solid or semi-solid wall shall be constructed of stone, masonry, brick, architectural tile or similar material (Not including wood or woven wire) along the south and west property lines, as indicated on the C.U.P., said wall may be reduced in height to 3 feet for a distance of 35 feet from the right-of-way of 21st Street and Maize Road.

   The required masonry wall shall be constructed within a five (5) foot wall easement platted separately from all other easements. Construction of this wall will require a building permit. No portion of the wall shall be constructed in any utility easement. Construction of the wall shall be permitted across utility easements only if column footings are used. A financial guarantee for any portion of the wall not built shall be required prior to the issuance of any occupancy permit(s). Failure to properly maintain the wall shall be considered a violation of the C.U.P., after a joint determination by the Director of Planning and the Superintendent of Central Inspection.

   The construction/guarantee of the wall mentioned above shall be required only along the applicable parcel boundary line(s) at the time the parcel is developed.

   Storage areas, service areas, and trash receptacles shall be appropriately screened to reasonably hide them from ground view.
6. Fire lanes shall be in accordance with the fire code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The fire chief or his designated representative shall review and approve the location and design of all fire lanes prior to final approval of the parking plan.

   Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to issuance of building permits.
7. A site circulation plan shall be submitted to the M.A.P.C. Director for approval prior to requesting a building permit.
8. Utilities shall be installed underground on all parcels.
9. A drainage plan and guarantees for drainage improvements shall be provided at the time of platting.
10. Final determination of street right-of-way and pavement widths shall be resolved at the time of platting.
11. Those portions of the major entrance to 21st Street North on public right-of-way shall be guaranteed at the time of platting. Those portions of the major entrance on private property will be required at the time any major building permits are requested for Parcel #1.
12. At the time of platting, the applicant shall guarantee the construction of continuous accel/decel lanes along Maize Road and 21st Street and the reconstruction of the median in 21st Street to provide for left turns into Parcel 1 and -. Temporary decel lanes shall also be guaranteed along Maize Road to serve Parcels 1 and 5. The guarantee for the temporary lanes will be held by the City of Wichita until development occurs. (Partial development would necessitate partial construction of the temporary lanes.)
13. The transfer of title of all or any portion of land included within the community unit plan (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and shall be binding upon present owners, their successors and assigns.

0 50 100 200

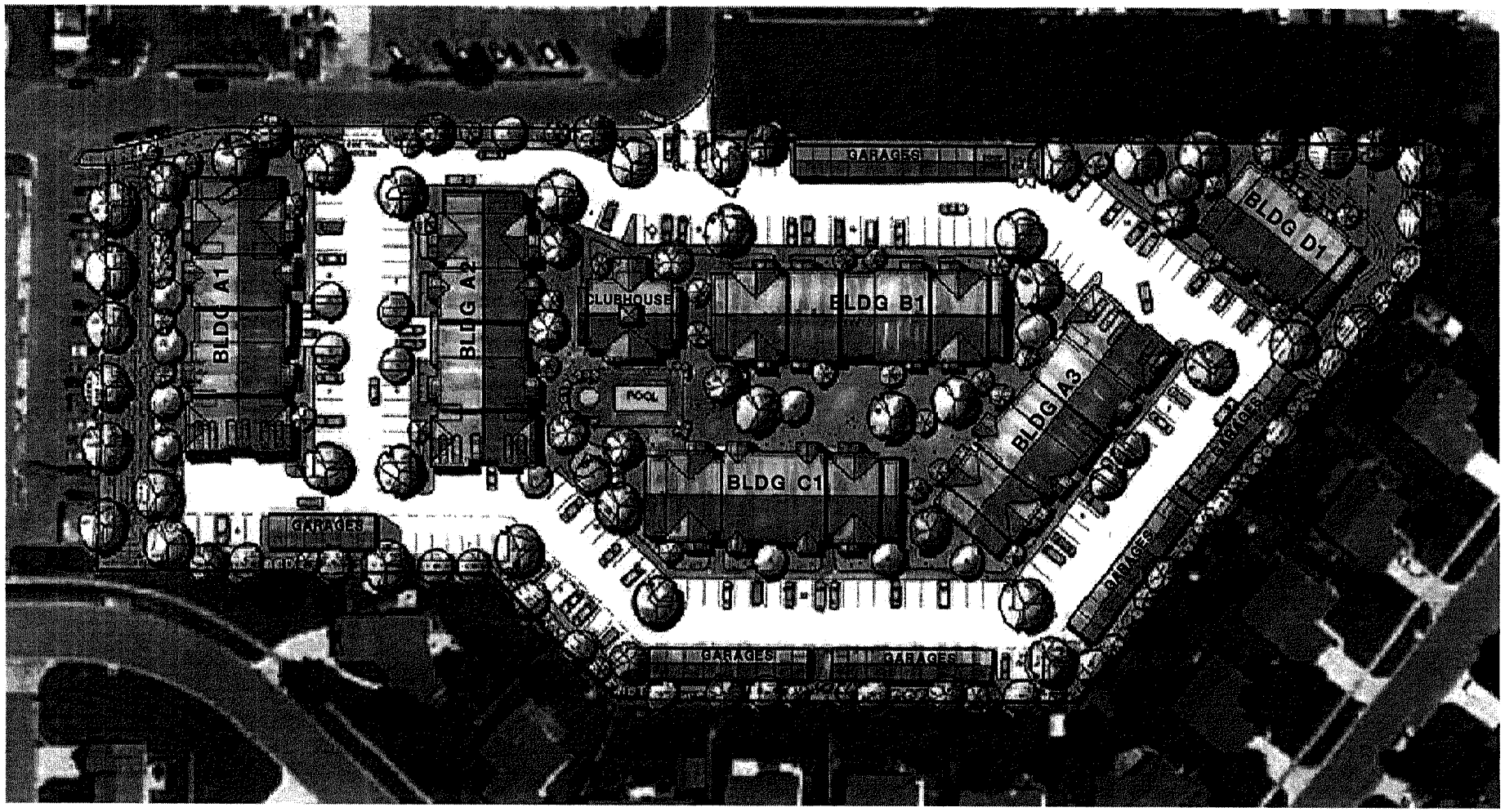
✳ FUTURE SIGN LOCATIONS

GREYSTONE COMMUNITY UNIT PLAN
DP-197

RZ-1330 PC 2-20-97 CONSTRUCT
APPROVED CUP
MAPC B-2-90
WCC B-28-90
MAPD COPY 2 OF 2

REVISED 3-5-97
REVISED 3-5-90
REVISED 6-21-90

BAUGHMAN COMPANY P.A.



MASTER SITE PLAN

0 30'

DENSITY = 130 UNITS/6.03 ACRES = 21.55 UNITS/ACRE
PARKING = 257/130 =1.98 STALLS/UNIT

166 OPEN PARKING STALLS
67 DETACHED GARAGE STALLS
24 ATTACHED GARAGE STALLS
TOTAL = 257 PARKING STALLS

** THIS IS FOR ILLSTRATION PURPOSED ONLY*.
ALL AMENITIES, LANDSCAPING, BUILDINGS AND LOCATIONS
ARE CONCEPTUAL AND MAY BE SUBJECT TO CHANGE. **

SPT
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BENNINGTON PLACE APARTMENTS
21ST AND MAIZE RD.

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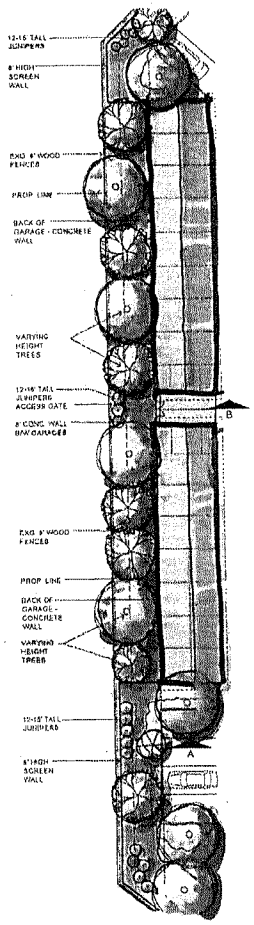
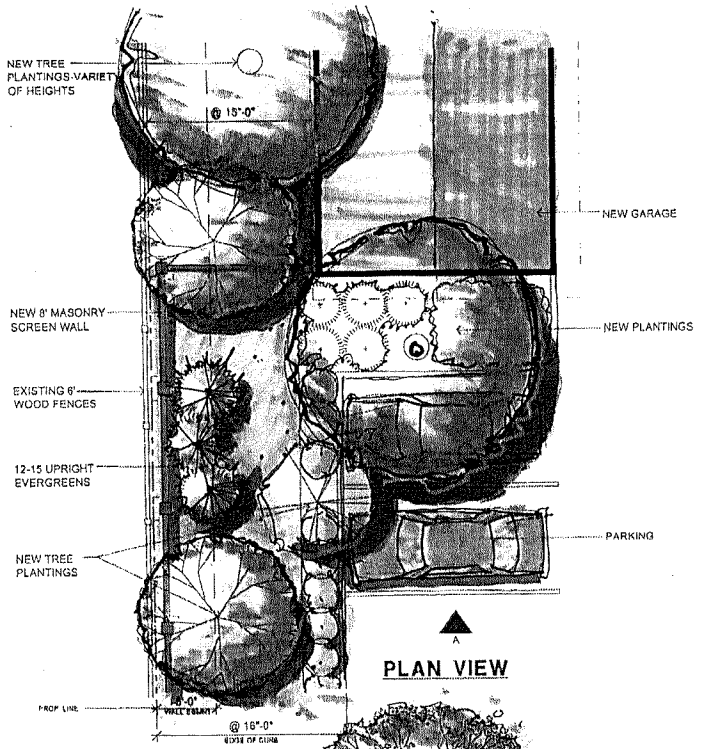
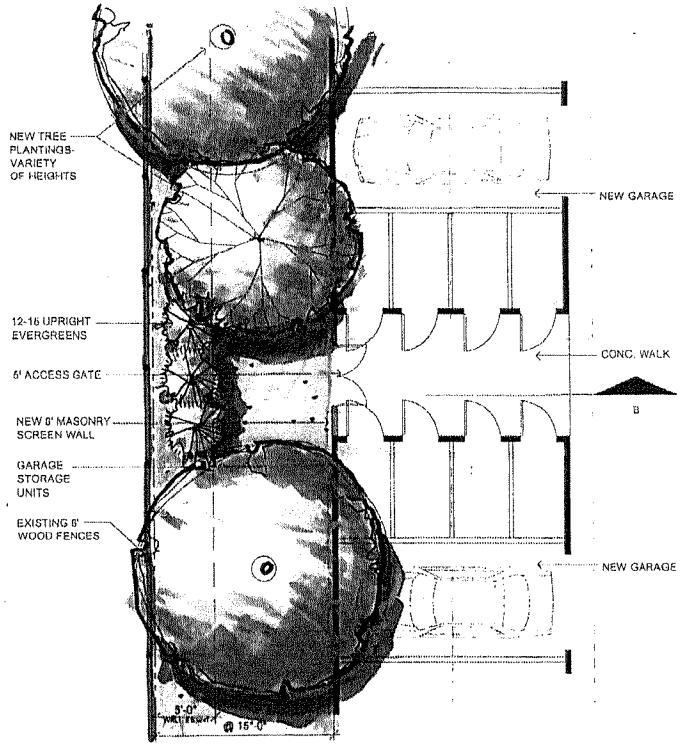


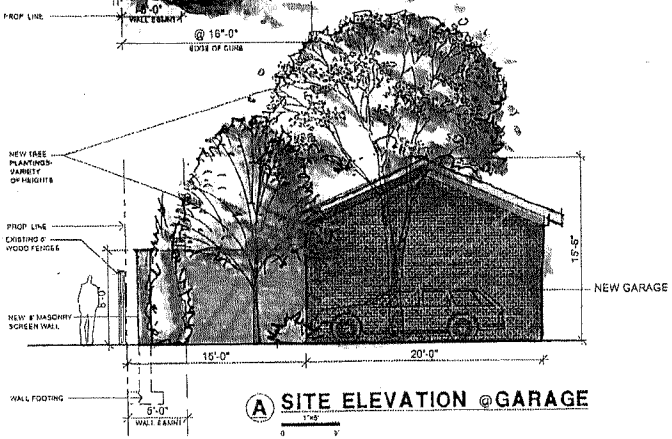
SITE PLAN



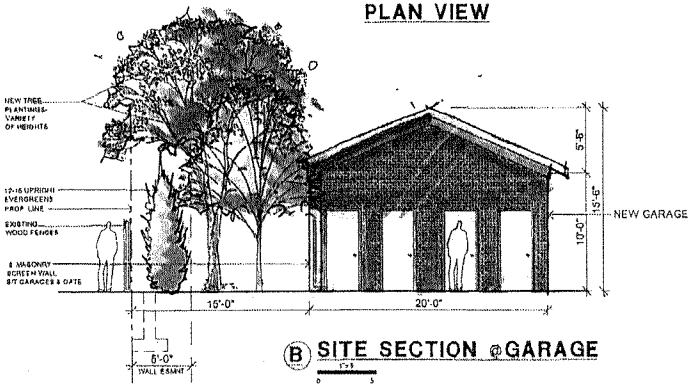
PLAN VIEW



PLAN VIEW



A SITE ELEVATION @GARAGE



B SITE SECTION @GARAGE

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BENNINGTON PLACE APARTMENTS - 21ST & MAIZE

WICHITA KS

S1

05 NOV 11

Goltry, Donna

From: Schlegel, John
Sent: Wednesday, October 12, 2011 5:22 PM
To: Goltry, Donna
Cc: Miller, Dale
Subject: Multifamily rezoning at 21st and Maize

Sensitivity: Private

Donna,

Beverly Killian of 9909 W. 20th Street N. called today to tell me that she cannot attend the MAPC meeting on October 20 for this rezoning request due to surgery. She is opposed to rezoning the property for apartments and would like the zoning to remain Limited Commercial. Please make sure the Planning Commissioners are made aware of her opposition.

John L. Schlegel
Director of Planning
Wichita-Sedgwick County Metropolitan Area Planning Department

EXCERPT MINUTES OF THE OCTOBER 20, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: CUP2011-31 - B & E Investments, Inc. c/o Mike Brand (owner); Spangenberg Phillips Tice Architecture, c/o Greg Tice (agent) request Amendment #1 to City DP-197 Greystone Community Unit Plan to allow Multi-Family Residential as a permitted use for Parcel 1 and reduce the building setback (for one-story garages) from 35 feet to 10 feet on property described as:

Lot 5, EXCEPT beginning at the Southwest corner of Lot 4; thence East 435 feet; thence South 69.93 feet; thence West 435 feet; thence North 69.93 feet to the beginning, Timber Ridge 4th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting DP-197 Greystone Community Unit Plan ("CUP") Amendment #1 to allow multi-family residential use on Parcel 1 and to reduce the platted setback (for one-story garages) from 35 feet to 10 feet. An apartment complex (138 units) is proposed on a 6.3-acre tract located south of 21st Street North and east of Maize Road. It should be noted that although the CUP amendment can indicate the intent to reduce a platted setback, the vacation process would have to be completed before the CUP could be amended.

Currently the tract is zoned LC Limited Commercial ("LC") and allows a variety of commercial type uses, stated as follows: "Proposed General Uses: Retail uses, liquor stores, financial institutions, restaurants (except drive-up or drive through restaurants), offices, private clubs, and shopping center facilities." The parcel is situated behind a solid string of uses along Maize Road and 21st Street North that nearly block the view of this parcel from the arterial streets. The six other parcels contain a variety of commercial uses, including fast-food (McDonalds) at the hard corner, a multi-tenant commercial building, a free-standing liquor store and a bank to the north along 21st Street North. Another multi-tenant commercial building is located on the CUP along Maize Road. The uses are fairly evenly split between restaurants, personal care services, bank, retail and offices.

Access to Parcel 1 would be from two private drive openings, one of which is located between Parcel 2 (McDonalds) and Parcel 3 (commercial building) onto Maize Road and the other of which is between Parcel 6 (commercial building) and Parcel 7 (the liquor store) onto 21st Street North. No access is permitted to the south and the property does not connect to Valleyview Drive to the east.

Maximum building coverage and gross floor area would be 30 percent. Maximum height is 35 feet. The site plan shows 13 buildings (six apartment buildings, one to two clubhouse buildings and five to six garage structures). The proposed change would require allowing the option of multiple buildings instead of one large commercial structure. A proposed rendering shows a three-story building.

Parcel 1 setbacks are not shown on the existing CUP drawing, but are required to be 35 feet per Unified Zoning Code ("UZC") CUP standards for the perimeter property lines that abut residential zoning. The plat did include a platted setback of 35 feet along the south and east property lines of Lot 5, Timber Ridge 4th Addition, which includes the subject parcel.

Multi-family residential is considered less intensive by the UZC hierarchy than the proposed potential uses currently proposed for the parcel. However, since none of the proposed general uses of the CUP are residential in nature, and due to opposition expressed by neighborhood residents when multi-family use

was requested to be included by administrative adjustment, the proposed change is being reviewed by amendment to the CUP.

The intersection of 21st Street North and Maize Road is a major retail corridor anchored by New Market Square on Maize Road, a Dillons MarketPlace directly across 21st Street North, and other commercial uses to the north and west of the intersection, located on property zoned mostly LC, with some pockets of GC General Commercial ("GC"). The abutting property to the northeast is zoned GO General Office ("GO") and developed with four free-standing offices. Single-family homes are located to the east and south on property zoned SF-5 Single-Family Residential ("SF-5"). A large church is located across Maize Road to the southwest, also zoned SF-5.

CASE HISTORY: The property is platted as part of Lot 5, Timber Ridge 4th Addition, recorded April 22, 1997. Zone case 2-3003 and DP-197 were approved in 1990. Zone case Z-3003 extended LC zoning to the entire site.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial, retail, restaurants, offices, banks
SOUTH:	SF-5	Single-family residential subdivision
EAST:	GO, SF-5	Single-family residential subdivision, offices
WEST:	LC	Commercial, retail, restaurants, offices, banks, church

PUBLIC SERVICES: The property has direct access to 21st Street North and Maize Road; one access point to each road. The 21st Street access road is 38 feet wide at the entrance and narrows to 30 feet. The Maize Road access road is 59.72 feet wide. 21st Street and Maize Road are principal arterial streets with two-through lanes in each direction, one right-turn lane and one left-turn center lane where the two arterial streets intersect. A mountable median runs eastward in 21st Street from its intersection with Maize Road that permits access to Parcels 2, 5 and 6. The mountable median stops short of Parcel 1's 21st Street access point and a center left-turn lane provides west-bound left-turn access to Parcels 1, 7 and 4. Proposed improvements to 21st Street are expected to improve access to the site from 21st Street and to add dual left-turn lanes at the intersection of 21st and Maize. Average daily traffic on 21st Street North was 29,203 to the east (2009 count) and 20,423 vehicles to the west (2007 count) of Maize Road. In 2010, average daily traffic on Maize Road was 21,933 vehicles per day to the south and 25,144 vehicles per day to the north of 21st Street North. Access from Parcel 1 to Maize Road is via a full-movement drive. Maize Road at Parcel 1's entrance does not have a median, a north-bound right-turn deceleration-lane or a south-bound left-turn lane. Proposed improvements to Maize Road include a south-bound left-turn lane at Parcel 1's entrance as well as dual left-turn lanes at the intersection of 21st Street.

According to the Institute of Traffic Engineers manual, apartments generate an average of 6.6 vehicle trips per day. The applicant proposes 138 units which are estimated to generate 911 average daily vehicles trips. Retail uses are estimated to generate 42 average daily vehicles trips per 1,000 square feet of gross floor area. If the 6.1-acre site were to be developed at 30 percent, the site could offer 79,715 square feet of built gross floor area. If the site's traffic generation rates for commercial development were to reach projected rates, this site could generate as much as 3,348 average daily vehicle trips.

Sanitary sewer service to Parcel 1 and the immediate surrounding area is provided by two eight-inch lines, one on the north side and one on the south side of Parcel 1, that run east, connect to a single eight-inch line that runs southeast and east to the Big Ditch. Planning staff contacted Sewer and Water Department staff to see if there is a capacity limitation or if there is a record of capacity deficiencies with

sanitary sewer at this location. Planning staff was advised that Sewer and Water personnel are not aware of any capacity limitations with this sewer line.

Access to Parcel 1 from 20th Street North is prohibited by platted complete access control. Development of Parcel 1 will trigger the CUP required wall along the southern boundary of Parcel 1, which will further re-enforce access control to Parcel 1 from 20th Street.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "Local Commercial," a classification limited to "predominately commercial, office and personal service uses that do not have a significant regional market draw."

The proposed apartment use conforms to the uses permitted by right in the LC zoning district.

The position of the site between more intensive commercial uses to the north and west and less intensive residential uses to the south and east, plus its proximity to major arterial streets follow the recommended Locational Guidelines for multi-family residential use. The recommended CUP conditions would keep the setback in place, enhance the buffering/landscaping, and place limits on lighting, noise and signage. These conditions are designed to minimize the project's impact with the nearby single-family neighborhood.

RECOMMENDATION: The use of the site for apartments seems supported by the factors that show it being a less intensive use and one that can place a medium-density use between lower density residential and higher intensity commercial uses. The requested use of the 35-foot setback for garages and parking spaces raises thorny issues. The presence of the garages serves as a better separator between the apartment structures and the backyards of the residential neighbors to the south. However, the line of sight drawings show that the residents of the third, and to lesser extent the second floor apartments, will still have a line of sight with the residences. The effect of allowing the garages in the 35-foot setback (even if it is expanded to perhaps 20 feet) is that larger structures are located quite close to the neighbor's property. In old residential areas, it was typical to have the free-standing single-car or maybe double-car garage at the back of the lots, but this is not the typical pattern in this area with attached garages. And the use of the setbacks for garages and parking spaces brings the vehicle activity closer to the single-family homes.

Keeping the standard 35-foot setback creates a wider open space between the apartments and the property line; however, it allows the buildings to be located closer than if the garages and drive aisles were situated between the apartments and the property line. The trade-off is closer apartments with more open space separation versus more vehicle activity from the drive aisles and parking/garages. On balance, staff feels it is preferable to keep with the standard setback.

Based on these considerations and the information provided prior to the public hearing, staff recommends the request for Amendment #1 to DP-197 be approved for multi-family residential use, subject to the following additional limitations.

1. Density shall be limited to 22 dwelling units per acre or 130 dwelling units, whichever is less.
2. An additional condition shall be added to General Provision #4 to limit signage for Parcel 1 to signs permitted by the Wichita Sign Code for the MF-29 zoning district.
3. The building setback (for one-story garages) shall be reduced from 35 feet to 10 feet for the south and east property line with provision for maintaining the screening wall and landscaping per approval of the Planning Director.
4. Maximum number of buildings shall be 15.

5. The buffer of trees on the south and east property lines shall be provided at a rate of one tree per 27.5 feet of property line by evergreen or deciduous trees, with at least one-third of the trees being evergreen, in addition the screening wall shall be eight feet in height and otherwise in compliance with General Provision #5.
6. No lighting trespass shall be permitted to spill from the site to the residential zoned areas to the south and east.
7. Noise shall be restricted to that allowed upon property zoned as residential.
8. Access shall be prohibited to 20th Street North and Valleyview Street.
9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
10. 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.
11. 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 other parcels in the CUP are zoned LC and contain a variety of commercial uses, including fast-food (McDonalds) at the hard corner, a multi-tenant commercial building, a free-standing liquor store and a bank to the north along 21st Street North. Another multi-tenant commercial building is located on the CUP along Maize Road. The uses are fairly evenly split between restaurants, personal care services, bank, retail and offices. The intersection of 21st Street North and Maize Road is a major retail corridor anchored by New Market Square on Maize Road, a Dillons MarketPlace directly across 21st Street North, and other commercial uses to the north and west of the intersection, located on property zoned mostly LC, with some pockets of GC General Commercial ("GC"). The abutting property to the northeast is zoned GO General Office ("GO") and developed with four free-standing offices. Single-family homes are located to the east and south on property zoned SF-5 Single-Family Residential ("SF-5"). A large church is located across Maize Road to the southwest, also zoned SF-5.

2. The suitability of the subject property for the uses to which it has been restricted: The development pattern along 21st Street North and Maize Road has virtually eliminated visibility of the parcel from passing traffic. This significantly restricts the potential use of the property for true commercial use, making it unsuited for uses depending on attracting the traffic traveling past the site.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development will change the site from being a vacant site (farmed as a source of an interim use) to one that is of greater residential intensity but not as intensive as the commercial uses allowed for the site.

4. Length of time the subject property has remained vacant as zoned: The property has remained undeveloped since being rezoned in 1990.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate

for "Local Commercial," a classification limited to "predominately commercial, office and personal service uses that do not have a significant regional market draw." The proposed apartment use conforms to the uses permitted by right in the LC zoning district. The position of the site between more intensive commercial uses to the north and west and less intensive residential uses to the south and east, plus its proximity to major arterial streets follow the recommended Locational Guidelines for multi-family residential use. The recommended CUP conditions would keep the setback in place, enhance the buffering/landscaping, and place limits on lighting, noise and signage. These conditions are designed to minimize the impact with the nearby single-family neighborhood. Direct access would be prohibited onto 20th Street North.

6. Impact of the proposed development on community facilities: The amount of traffic estimated from residential development ranges from one-third of peak volumes for free-standing discount supercenter and specialty retail to less than ten percent of the volumes for a supermarket, based on the Institute of Traffic Engineers manual.

7. Opposition or support of neighborhood residents: Significant opposition from the residents to the south has been received. The additional conditions recommended by the staff are designed to reduce the impacts voiced by these residents.

DONNA GOLTRY, Planning Staff presented the Staff Report.

COMMISSIONERS MCKAY, MITCHELL, KLAUSMEYER, ALDRICH and **DENNIS** indicated that they had ex-parte communication on this item.

SHEETS (In @1:45 p.m.)

MITCHELL referred to staff remarks about improving the traffic and asked why that wasn't one of the recommendations in the Staff Report.

GOLTRY replied that the City Traffic Engineering told her traffic improvements at Maize and 21st Street were already on the drawing board so she did not include that recommendation.

MCKAY asked about the proposed number of apartment units. He said one drawing shows 138 units, while the other drawing shows 126.

GOLTRY suggested that he ask the applicant to clarify the number of units.

ALDRICH asked staff to explain the traffic improvements and the impact the improvements will have on this request.

GOLTRY said the proposed improvements include dual left turn lanes at the intersection which will improve the "stacking" problem that is occurring today. She said there will be a southbound left turn lane onto parcel 1's entrance to improve access.

ALDRICH asked if adjustment would be made to the traffic signalization timing to help traffic flow.

GOLTRY said she believed the Traffic Engineer would do a study to see if a timing change is warranted; however, she said she couldn't say because she is not a traffic engineer and doesn't know what the solution might be.

MARNELL asked if the left turn lanes at 21st and Maize would be located back as far as the egress/ingress to the site on Maize Road.

GOLTRY said she didn't believe the lanes would go that far. She said it was her understanding that they would be adding a turn lane along Maize Road.

FOSTER referred to the original Community Unit Plan (CUP) and mentioned proposed uses on parcel 1 and uses listed as permitted in Limited Commercial.

GOLTRY briefly summarized the three P's which were *proposed, permitted* and *prohibited* uses. She said proposed uses are within the general realm and intensity of what is allowed under the zoning category, but it is not a do all end all list. She said permitted uses are more directly tied into what is allowed in that zoning category. She said prohibited uses are what are not allowed under that zoning category. She said proposed uses are a more flexible category.

GREG FERRIS, AGENT FOR THE APPLICANTS/PROPERTY OWNERS commented that **GREG TICE** from **SPANGENBERG PHILLIPS TICE** was present to answer any specific questions the Commissioners might have regarding the proposal. He briefly explained that because the zoning they were requesting was less restrictive than the CUP allowed, the case was originally scheduled as an administrative adjustment; however, after the sign was placed on the property and they encountered some opposition from the neighborhood, Planning Staff felt (and they agreed) that the matter should be discussed in a public meeting. He reminded the Planning Commission that 80,000 square feet of Limited Commercial (LC) and three-story buildings would be allowed on this vacant lot today. He said the applicant's are requesting less intense uses than LC. He said although the neighbors may object, the Planning Commission and City Council need to follow the "Golden Rules" and ask does this fit with policies laid down by the Golden Rules when rendering a decision. He said his clients believe they have met all the criteria of the rules. He briefly reviewed a slide presentation of the Bennington Place Apartments, and referred to a rendering of the Master Site Plan. He said the minimum number of apartments would be 130 and a maximum would be 138. He referred to the Master Site Plan, which was the applicant's preferred site plan, and an Alternate Master Site Plan. He mentioned the required 35-foot building setbacks and said that with commercial/office development clients would be allowed to park up against property lines. He also mentioned the 6-8-foot fence height requirement and 10-15 feet of landscaping as a buffer. He said they believe the Master Site Plan is better for them and the neighborhood because it pushes the building further from the neighborhood. He said it would be designed so the back masonry walls would match the screening fence. He said the Alternate Site Plan would bring the building closer to the neighborhood, and may create flow problems within the complex. He mentioned that the apartments will be very upscale and designed with some garage units in place. He said the complex will cater to adults and executives; will be a gated community; and there were no three bedroom units in the complex. He added that there will also be no low income subsidies, that the project is completely developer driven and that the applicants will not be using any government funding. He said they are requesting a setback adjustment which is not uncommon. He mentioned several complexes including one at 13th Street and Maize Road and 21st and Woodlawn where apartments abut residential development without a street in between.

MOTION: To give the agent 1 more minute.

SHEETS moved, **DOOL** seconded the motion, and it carried (12-0).

Ferris briefly mentioned the Golden Rules again, and commented that this proposal would fit in with the zoning character of the neighborhood which was commercial with residential to the south. He said the apartments would make a good transition between LC and residential development. He said as far as

suitability of the property for the use; the property has been vacant 21 years, undeveloped, and is no longer compatible for the uses to which it was originally restricted. He said as far as the extent to which removal of the restrictions will detrimentally affect nearby property, he said they believe multi-family uses will have no impact to the neighborhood. He said as far as property values are concerned, he compared property values around the apartment complexes he mentioned with the homes along 20th Street which range in the area of $135,000 and the values, although the homes along 20th Street are newer, are almost identical. He said crime has been raised as an issue so he went to the City's WEB site and checked a ¼ mile back from 21st Street because he said commercial properties generate much more crime than residential development. He briefly mentioned that the Wichita Police Department has received 12 calls around the 13th Street and Maize Road apartment location and that this area south of the proposed site received 11 calls during the same time period so they do not believe this proposal is going to have a negative impact on the area as far as crime is concerned. He mentioned traffic, and said if this area were allowed to develop into commercial properties there would be about 3 ½ times as much traffic as that generated by multi-family so this development will cause a substantial reduction in the traffic count by creating at least 1/3 to 1/4 less traffic.

ALDRICH asked about fire and emergency access to this gated community and wall height and buffering.

FERRIS said emergency access would be provided. He said the Unified Zoning Code (UZC) suggests a 6-8 foot wall as part of the buffering; however, if the Planning Commission required an 8-foot wall, they would have no problem with that. He said additional screening and buffering is also required on the non-residential sides of the complex.

CHAIRMAN FARNEY asked about the area behind the liquor store and if it were part of the application.

FERRIS explained that the area has been acquired by the developers; however, at the time of submission of this request, it was not part of the plan. He said if this is request is approved, they may ask for an adjustment to provide additional landscaping, drainage and extension of building D.

MARNELL referred to the Master Site Plan with the garages next to the property lines and asked if the back of the garage buildings will make up part of the masonry wall.

FERRIS said they preferred to make the buildings a part of the masonry wall but that was up to staff and the Planning Commission. He said they could maintain the landscaping better if that happened.

MARNELL commented that the backs of the garages will probably be higher than 8 feet.

FERRIS commented they would be approximately 8-9 feet plus a roof line.

NORMA CARTER, 10202 WEST 20TH STREET said she visited apartments in the area, and has some reasons for concerns about this proposal. She referred to a poster which contained numerous photos of apartments in the area. She said many of them looked well kept at the entrance; however, when you drove or walked through the complex you saw things like air conditioners not maintained, rotting structures, overflowing trash bins, sagging balconies, rats, fences down and in need to repair and utilities not being maintained. She said her grandchildren play in her backyard and she is concerned that someone will be able look out of a window onto her backyard. She said if this area were developed into three-story office buildings, instead of an apartment complex, people in an office go home at a certain time at the end of the day. She said with apartments there will be late parties and cars racing through the parking lot. She referred to the pictures of nearby apartment complexes which have not been maintained very well so

she is concerned about her property values going down because people would not want to live by something that was so poorly maintained. She also mentioned the possibility of floodlights in their backyards as if it was daylight and although it is good for security, it would be hard to live with. She said she wants her neighborhood to stay as nice as it is now and not have to worry about property values going down or friends moving away. She said they are lucky to have the New Market Square and Warren Theater in the area. She said this is an exciting area and that she hoped there was a way they could all work together and keep what they have.

2 **NORM DOOLEY, 10101 WEST 20TH STREET NORTH** said his biggest concern is traffic and mentioned that it is impossible to make a left hand turn onto Maize Road and head south from 20th Street. He said even if the apartments are upscale; tenants may still have kids who go to school which would mean buses in and out of the area. He said there is nothing but an access road to the businesses along 21st Street with a number of cars parked behind them. He said it is quite a busy area for deliveries of supplies from semis and/or other large trucks using the access road. He mentioned that if the apartments have young couples, that would probably mean two cars per unit which would double the traffic estimates. He said he does not believe that a fast food restaurant would work at the location because it is basically landlocked and hard to get to. He said if the developers could put a fast food restaurant at the location, they would have probably already sold it. He said the reason he likes the idea of developing the area as commercial is people will work 9:00 a.m. to 5:00 p.m., and then be gone. He said the traffic is so bad one of the businesses in the strip mall on the west side of Maize Road moved because customers couldn't get into it. He mentioned that he went to a class put on by the Wichita Police Department and was told that multi-family development inevitably leads to more crime, traffic accidents, domestic violence calls, etc. and that it doesn't make any difference how much money you make. He also mentioned drainage problems they have had since a church was constructed to the north and how the collection pond overflows. He mentioned a 15" water line in the area and how that was not large enough. He concluded by saying that what the applicant was proposing was just a plan and that they could change lots of things.

3 **JOHN GAIBRAITH, 9901 WEST 20TH STREET NORTH** said he has enjoyed living in this nice, quiet, low crime neighborhood since 1997. He said traffic in the area has become a concern and his two objections are public safety with the obvious issues along Maize Road and 21st Street. He said putting more residences in the area will do nothing but increase that problem. He said although he appreciates the fact that there will be gates and that this is an upscale community, that doesn't lower the volume. He said there is a problem in area with overall congestion. He mentioned that they have a right to be concerned about the increase in crime and added that crime happens in high income as well as low income areas. He said you practically have to call a travel agent to get across the street to Dillons without waiting 30 minutes or having an accident. He said he is also concerned about property values going down and although the City is trying to alleviate the traffic problem, he doesn't think a nice upscale apartment complex fixes the problem. He said he has spoken to a realtor and in their professional opinion, home values in the area will drop. He said he would like to have a real estate person testify because he was told the property values would drop at least 20% so he is not a happy camper.

4 **KIM PARKER, 9802 WEST 20TH STREET** said her main considerations were traffic and the change in property values for both the homeowners and LC business owners. She said it is a different equation when you are talking about renters. She said this area is not ready for prime time because of the traffic. She said the best use for this property is for a fishing hole. She said this area was ill developed for commercial because there are homes to the east all the way to the big ditch and Valleyview is not a through street to 13th Street. She said homeowners only have one way out onto 21st Street from Valleyview, and there is no stop light. She said it is just as difficult to come out of 20th Street onto Maize and go south. She said this area has changed in the last 22 years and that there is no way the traffic situation will be alleviated by the proposed turn lanes. She said this area may be ready for development at some point in time, but this is ill prepared because the traffic problem needs to be solved first. She also

mentioned the possibility of opening up the access road north of the property from Maize Road to Valleyview, and opening up Valley view to 13th Street as was proposed 20 years ago. She said this would further complicate the traffic situation, and mentioned that this area is known as the "Rock Road of the West." She asked the Planning Commission to consider these issues when making a decision.

DONNA RENFRO, 2222 NORTH CRESTLINE COURT said she lived on 20th Street for years and cars cut through there all the time to avoid 21st Street. She said there is lots of traffic on 20th Street and this will only increase it more. She said children play on the street and that this was a bad idea. She read a letter from **STEVEN BARNES, 10142 WEST BELLA VISTA STREET** which stated in part that he must agree with the area residents that building an apartment complex so close to an intersection that is already a traffic nightmare shows bad judgment. He said the Eagle article stated the plan is for 130 units, which at the very least is 130 more vehicles accessing the traffic ways within several hundred yards of 21st Street and Maize Road. He said traffic is currently so congested he has trouble getting out of the parking lots of businesses in the area. He said another concern is drainage. He said he has lived at his current address for 11 years and he had no problems with flooding until a parking lot was built for one of the nearby churches. He said since that time his basement has flooded twice because rain water had no place to go. He said these flooding incidents cost him $7,000 each, because flood insurance would not cover damages. He said he has spent $16,000 to put in high volume water pumps underground in his backyard to handle the mess. He said City engineers came to his house and studied the current drainage system for the area and agreed it was not built large enough. He said although they agreed there was a drainage problem, they could not justify digging up 6 blocks to rectify the problem. He said he fears that those in charge of making sure drainage in the area is correct will look the other way creating flooding issues for homes and businesses that reside next to the proposed development. He mentioned Mr. Brand's attitude and that he perceived him as making threats about getting back at local residents if he doesn't get his way. He urged the Planning Commission to deny the zoning change.

SANDRA WHITTEMORE, 10209 WEST 20TH STREET said she is concerned about traffic in the area, which although mentioned in the Staff Report, does not address the local and out of town traffic generated by the three churches, the Wichita State University campus, numerous businesses and businesses located at the New Market Square Mall located in the area. She said the streets in the Timber Ridge Addition are already overflowing with traffic and cars use 20th Street as a thorough way to Valleyview and 21st Street. She said the neighborhood cannot handle an additional 138 apartments and approximately 270 more cars and parking spaces. She said they have met with City Engineering staff and know they are looking at the flow of traffic, possible additional turn lanes, and what traffic will be like in the future. She said this is a replay of the 1980's when people were losing their homes and got apartments. She said when the economy grew these same people were able to be homeowners again, so the apartments became empty and the neighborhoods around them were left to pick up the pieces when the apartment owners were forced to rent to anyone. She said she saw six rental signs at apartment complexes in the area this weekend. She said this rezoning will devalue the property values of the homes in the neighborhood per the real estate paper she is providing to staff. She commented that a homeowner was contacted by one of the investors, and asked who was spearheading the protests of the project. She said the investor claimed that if the proposal was not approved, the neighborhood could be getting low-income, government subsidized apartments or a bar with all night traffic. She said that was a threat. She said if this rezoning is allowed, control will be taken out of everyone's hands but the investors. She said several alternative options were discussed with the agent including town houses, strip centers, and one-story medical offices at the same level as their homes so people will not be looking into their windows. She said she stayed on the 2nd and 3rd floors at a hotel recently, and was amazed at how far and with what detail she could see. She said lighting was also a problem. She said they have talked to the City Water and Engineering Departments, investors, homeowners and businesses in the area who she said felt this would not be in the best interest of their businesses. She said the neighbors bought their homes knowing they would at some time have LC in their backyards but not this added problem of crime, trash, smell and

noise at all hours of the day and night. She mentioned WPD statistics that indicated that 85 percent of calls to apartments were about drugs, drinking, noise, fights and crime. She said this is misplanning and unfortunate that this 6.5 acres parcel has been unattended for this amount of time. She said the economy has not been bad back to the 1990's.

MOTION: To give the speaker 1 more minute.

ALDRICH moved, **SHEETS** seconded the motion, and it carried (12-0).

She said it is not just the apartments, it is the baggage left to be picked up. She said she believes the neighbors have addressed the nine criteria the Commission bases its decision on. She thanked the Commissioners for their time.

7 **MARY BETH WEGERLE, 10205 WEST 20TH STREET** said she represents "Friends of Felines," and is concerned how the development will affect the feral cat population in the area. She said she has a track, neuter and release program which is supported by businesses in the area. She said if the rezoning goes through some of the tenants will have pets but may not be responsible pet owners. She said she may not be able to manage the feral cats in the area, which she does at her own expense.

8 **CHARLOTTE FRAIZER, 10106 WEST 20TH STREET** she said she has no opposition to businesses such as restaurants, bars or office buildings and that the neighborhood would welcome them. She mentioned drainage and groundwater issues after two churches were built in the area, and said drainage in the area is inadequate. She mentioned traffic and said there are only three ways in and out of the neighborhood --Valleyview, 20th Street or Bella Vista. She said that she often has a problem backing out of her driveway because of traffic along 20th Street. She concluded by saying that she had no objections to LC development because people will leave at the end of the day.

9 **FRANK CHAMBERS, 10309 WEST 20TH STREET** gave a brief history of purchasing a home in 1988 at Westlink from Matt Eck Real Estate where the roof was bad. He said they had a verbal agreement that a new roof would be installed that never happened. He said after they moved in roofers put tar and chat on top of the roof to patch it. He said he was disappointed because that was not the agreement they had. He said in 1995 they purchased their home on 20th Street so they could be in the Maize School District. He said there was a model pictorial on what the area would look like when it was completed that included a rock wall as a sound barrier at 20th Street and Maize Road. He said the developer, Matt Eck, decided not to build the rock wall. He said he and other people were upset about this. He said now developers are proposing a residential apartment complex. He asked if the site plans were contractual and how do the neighbors know for sure that this complex will be just what they are proposing. He asked if this will be bait and switch and turn out to be something else entirely. He said he does not think this is going to be a good thing for the neighborhood and that he was opposed to it. He asked the Commission to strongly consider this evidence presented today. He said this is a good deal for the developers who will be in and out and the neighborhood will be left to deal with the consequences.

GREG FERRIS, AGENT FOR APPLICANTS/PROPERTY OWNERS said as far as the traffic issue is concerned, he can't talk about traffic from the perspective of a vacant lot. He said when all is said and done there will be no problems with traffic generated from the apartment complex and that commercial development will generate four to five times the amount of traffic generated from the complex. He referred to the Golden Rules and commented that the proposal was a lower use of the property and that they will actually be reducing the amount of traffic which he believes is paramount to the discussion. He said every speaker said there is too much traffic in the area now. He said whether they develop this area as full retail or office, they are required to submit a drainage plan. He said an apartment complex will not generate any more runoff than any development at the location so he believes that is a non-issue. He said

the crime statistics he mentioned included the apartment complex at 13th and Maize Road which has a lower amount of crime than the area of the proposal. He said the idea that apartments always generate crime is a misnomer.

MOTION: To give the agent two more minutes.

SHEETS moved, **MITCHELL** seconded the motion, and it carried (12-0).

He said this area could never be a fast food restaurant because that is not allowed by the covenants; however, he added that some restaurants and private clubs are open until midnight or 1:00 - 2:00 a.m. which would generate much later traffic than an apartment complex. He said they have no problem with staff recommendations with the exception of the 35-foot setback. He said they believe their plan better serves the neighborhood and them by constructing the complex approximately 70 feet from the neighborhood. He requested that the Commission concur with staff findings; that they believe they have met all the tests for approval; that this is an emotional issue concerning people's homes and he understands that; and that the neighbors have a right to come and tell the Commission what they think. He reminded the Commission that they have a responsibility as a Planning Commission to follow the Golden Rules. He concluded by mentioning improvements in traffic, crime statistics, and property values. He said they believe they have met the criteria and asked the Commission to approve the proposal and design.

SHEETS asked about the additional property acquired to the north and clarified that Mr. Ferris said it would be used for a detention pond and extension of one of the buildings. He asked Mr. Ferris to address neighbor's concerns that this area will be used for a connector road to Valleyview. He asked if there has been any discussion with the property owners to the north regarding a possible easement across their property.

FERRIS responded yes, the additional property will be used as he previously indicated; however, if the Commission wanted to add that there will be no access from the area to Valleyview as part of the requirements, they are fine with that. He said there have been no discussions with adjacent property owners to the north concerning easements.

SHEETS referred to the traffic figures on page three of the Staff Report. He said usually there are three employees per 1,000 square feet of retail so he thinks the numbers are actually lower than what is reflected in the Staff Report. He also mentioned that retail is usually open from 8:00 a.m. to 6:00 p.m.

FERRIS retail in this area is usually open from 8:00 a.m. to 9:00 p.m. and added that retail usually does create more traffic.

SHEETS asked if the traffic study addressed all three shifts or did it assume that all tenants would be working the first shift.

FERRIS commented that the reality was that since these were executive apartments tenants would be coming and going more during peak times. He said there will probably not be as many 3rd shift workers. He added that office workers are all peak time users.

ALDRICH asked if the Master Site Plan was not approved and the Alternative Site Plan was adopted, could they live with that.

FERRIS replied that they could live with it, but they preferred the Master Site Plan because it was better for the neighborhood and the developer.

MCKAY asked again how many apartments?

FERRIS said between 130 and 138. He said they need 130 to make it financially work, with a maximum of up to 138.

MITCHELL clarified that they agreed with staff comments on page 5 of the Staff Report (items #1-11) with the elimination of item #3.

FERRIS said yes and mentioned adding the provision of no access to Valleyview.

KLAUSMEYER asked Mr. Ferris if he could respond to the speaker concerning not following through with the proposed plan as presented here and if the building and architectural design was "set in stone."

FERRIS said criteria that are laid out such as landscaping issues, setbacks as discussed and the maximum number of buildings is set. He said they don't have much choice but to follow the criteria laid out by staff and the Planning Commission. He said they have to submit a site plan that is approved by staff. He said with multi-residential and commercial development, staff and the Planning Commission can develop additional criteria. He said the architect Greg Tice has indicated that this is the design he has been working with.

FOSTER said this is a prime example of where does pedestrian access come into play especially because of its close proximity to retail. He said he didn't see pedestrian access to Maize Road or 21st Street addressed on the site plan.

GREG TICE, SPANGENBERG PHILLIPS TICE said they would not have a problem incorporating pedestrian access into one of the conditions.

ALDRICH mentioned since this is a gated community, how would that work?

TICE commented that it would be a gated community for vehicular traffic; he said they could install sidewalks.

FERRIS said it is gated in terms of vehicular traffic to keep people from cutting through the complex.

MARNELL asked staff to review their objections to the Master Site Study. He asked if it was more of a setting a precedent kind of thing because if he was living in the area, he would rather have the garages. He also mentioned that traffic noise through a parking lot is not like traffic noise on Maize Road or 21st Street.

GOLTRY said it is an issue to consider weighing the trade offs. She said CUP's normally require a 35-foot buffer around them between the LC zoning and building locations. She also mentioned that CUP circulation is around the rear of the buildings and that it is not desirable to be next to neighbors, in her opinion. She said there may be a little employee parking in those areas also. She said in contrast with the Master Site Study alignment there will be a good deal of lights, parking noises and car doors, and car noise that will be in closer proximity to the neighbors so that is one of the trade offs. She mentioned that the trade off to the neighbor's benefit is that it is going to give them a wider setback in terms of the distance where the buildings are set so the line of sight is going to improve but it is actually going to reduce the amount of landscape buffer. She also mentioned what to do about the backs of the garages versus the masonry wall. She said the application was written as if there was a solid masonry wall with a 10-foot landscape buffer with five feet of that actually being a wall easement so that would leave only

five feet to plant anything with the garage sitting there. She said that is really not an effective way to sandwich in those plants. She said different ideas were discussed such as extending the setback from 10 to 15 feet, and staff concluded that it would be difficult to get the required landscaping in such a narrow area. She said now there is the situation with connecting the wall to the garages so the garage is set on the wall easement or set back 10 feet, she said if it is set back 10 feet how will it be maintained. She said these items are "tweaks" but if the wall is going to be incorporated with the garages that needs to be fleshed out. She said the Commission may also want to consider stronger review of the site plan since this is an old CUP.

DOOL commented that garages next to the neighbor's properties seemed a more desirable option to him.

> **MOTION:** To approve subject to staff recommendation with the exception of Item #3 under limitations.
>
> **MITCHELL** moved, **SHEETS** seconded the motion.

MARNELL asked if the motion included no access to Valleyview and addressed pedestrian access.

MITCHELL said no, he didn't know why the Commission would consider pedestrian access.

MILLER STEVENS requested clarification that the setback was with garages as shown on the Master Site Study.

DOWNING asked if the motion included the requirement of an eight-foot masonry wall along the areas that back up to residential.

> **MOTION AMENDMENT:** To include an eight-foot masonry wall along the areas abutting residential.

FOSTER asked what was the setback to the garage and the buildings themselves.

MITCHELL said he didn't see any reason for any, other than the wall tying into the back of the garages. He said staff indicated they are trying to come up with a better solution.

FOSTER asked if that would be handled by the submission of additional site plans reviewed by staff.

MITCHELL responded yes.

DENNIS said he understands that in a lot of cases a buffer between a residential area and a commercial area is important and he believes this would serve as a buffer in this aspect. He mentioned the other Golden Rules such as the character of the neighborhood and he said he believes having a three-story apartment building directly behind residential houses will detrimentally affect nearby property in addition to the strong neighborhood opposition to the proposal which is another of the Golden Rules. He said when he first moved to Wichita his family lived in some very nice apartments except that at 4:00 a.m. in the morning people would be coming home, there was trash in the neighborhood and the dumpster was constantly overflowing so they could not wait until their house was completed. He said he does not want to inflict that on this neighborhood. He said there were a number of items in the Golden Rules that could be argued in the other direction. He said for those reasons he will be voting in opposition to the motion.

ALDRICH requested clarification that the back portion of the garage and wall will be one and the same.

MITCHELL said his suggestion was that staff work out the best way to handle the setback.

CHAIRMAN FARNEY asked if that was satisfactory direction for staff.

MILLER replied that staff would make it work either way.

MCKAY said he was still hung up on the number of units and said he would prefer a maximum of 130 apartments.

MOTION AMENDMENT: Maximum number of apartments to be 130.

MILLER STEVENS said this discussion has revealed that the Planning Commission really needs to be mindful of the setbacks as established by the UZC and not just whatever Planning Staff comes up with which may be creating more problems. She said she is in opposition to the motion.

The **MOTION as AMENDED** carried (11-2). **DENNIS** and **MILLER STEVENS** – No.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Mayor and Wichita City Council Members

FROM: Megan Buckmaster, Neighborhood Assistant District V

SUBJECT: **CUP2011-00031**

DATE: November 08, 2011

On Monday, November 07, 2011, the District Advisory Board (DAB) for Council District V considered a: City DP 197 Greystone Community Unit Plan Amendment #1 to allow Multi Family Residential as a permitted use for Parcel 1 and reduce the building setback (for one-story garages) from 35 feet to 10 feet located at the southeast corner of 21st Street North and Maize Road.

The following is an excerpt from the meeting:

7. **CUP2011-00031**
Donna Goltry, Planning presented CUP2011-00031; a City DP 197 Greystone Community Unit Plan Amendment #1 to allow Multi Family Residential as a permitted use for Parcel 1 and reduce the building setback (for one-story garages) from 35 feet to 10 feet located at the southeast corner of 21st Street North and Maize Road.

Recommendation: Based on considerations and the information provided prior to the public hearing, staff recommends the request for Amendment #1 to DP-197 be approved for multi-family residential use, subject to additional limitations as listed in the staff report.

DAB member questions/ concerns included: **Staff/ Agent for the developer responses in bold.**

1. Concern for the flooding in all of west Wichita due to development- would like to hear more about the flood or water control plan for this development. **The plan is for 17000 sq. feet of retention for drainage. Required to submit a full-0scale drainage plan to the city and must meet all storm water flood control requirements.**
2. Regarding traffic. The only way to solve t he traffic problem is to have nothing on this parcel. That is not going to happen. Regarding crime, as reported by WPD to DAB's, the crime in apartment complexes usually stays within the complex and does not "spill over" into the residential neighborhoods. **Crime usually follows retail, not multi-family housing**.
3. Who will maintain the access road in between the proposed complex and the retail/ commercial parcels? It needs significant work and has not been maintained well thus far? **The owners of this project are the same as the commercial parcels, so they will continue to maintain the road. Improvements to the access road will be addressed with this development.**
4. How will emergency vehicles again access? **There is a separate gated entrance for emergency vehicles.**
5. Regarding lighting, will it meet code/ follow restrictions? **Yes.**

Members of the public questions/ concerns included:

Kim Parker, 9802 W 20th expressed concerns with traffic problems, congestion, property values, emergency vehicle access, police/ crime issues. She stated this parcel is not "ready" for development. The traffic issues at 21st and Maize need to be resolved before this can and should be development.

Charlotte, 10106 W 20th met with a real estate broker and was told her property would be de-valued by $15-$20,000. Concerned with water and flooding issues, access issues and the constant turnover that comes with apartment living. She also questioned the height of the masonry fence.

Wade Whitmore, 10209 W 20th, noted the apartment "samples" given during the presentation are nothing like what is proposed here. He also noted several accidents that had recently taken place at the access road entrance and provided flooding pictures in the area.

Robert Surgeon, 10114 W 20th, moved from South Wichita after retirement. Moved away because of the influx of rental properties and does not want it to happen here.

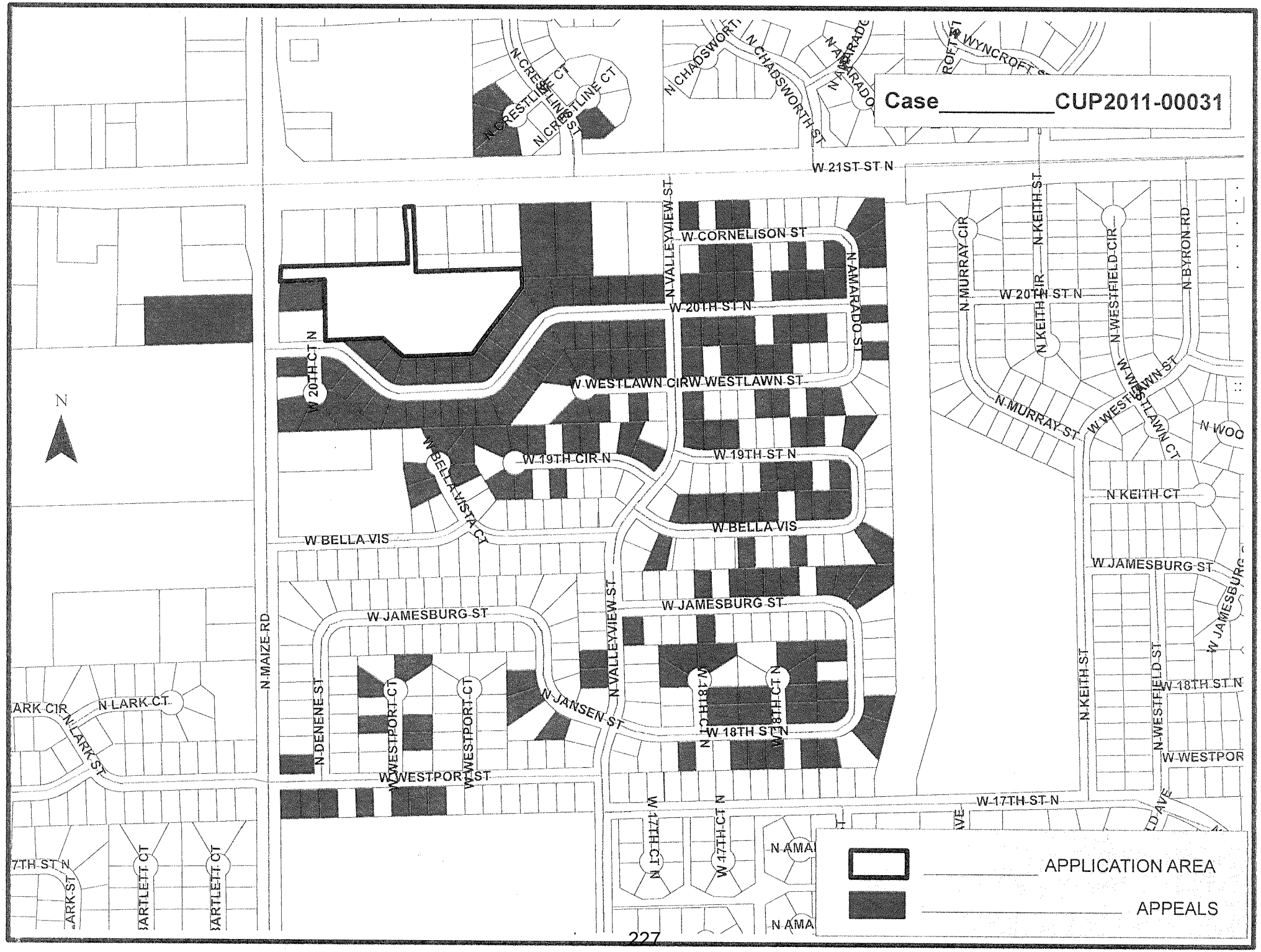
Sandra Whitmore, 10209 W. 20th, mentioned the 43% protest and the significance. She also questioned why development hasn't happened here before, maybe it has been recognized as more of a residential area.

Brent Jenkins, 9918 Westlawn, asked about Section 8 housing in this development.

Six other residents spoke on the same issues/ concerns as mentioned above.

Motion to approve, with MAPC modifications based on staff recommendation and comments, and to add the 60% brick façade requirement. Send to City Council for final vote.

Action: Motion passed 7-0


Case CUP2011-00031
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N AMARADO ST
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APPLICATION AREA
APPEALS

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Petition for Sanitary Sewer in Travel Air City Addition (North of Central, east of Webb) (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the petition.

Background: The petition has been signed by one owner representing 100% of the improvement district.

Analysis: The project will extend a sanitary sewer for a commercial development located north of Central, east of Webb.

Financial Considerations: The petition totals $56,000 with the total paid by special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing a sanitary sewer required for a commercial development.

Legal Considerations: The petition and resolution have been approved as to form by the Law Department.

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

Attachments: Map, CIP sheet, petition and resolution.

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE
To Initiate Project: X
To Revise Project:

1. Prepare in triplicate
2. Send original & 2 copies to budget
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works & Utilities	Eng & Arch	12/12/2011	Sanitary Sewer in Travel Air City Addition

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
NI		2011	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER*	TOTAL
Right of Way				
Paving, grading & const.				
Bridge				
Drainage				
Sanitary Sewer		$56,000		$56,000
Sidewalk				
Water				
Traffic Signals & Turn Lanes				
Totals		$56,000		$56,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition	X	
Ordered by WCC		

Remarks:

100% Petition

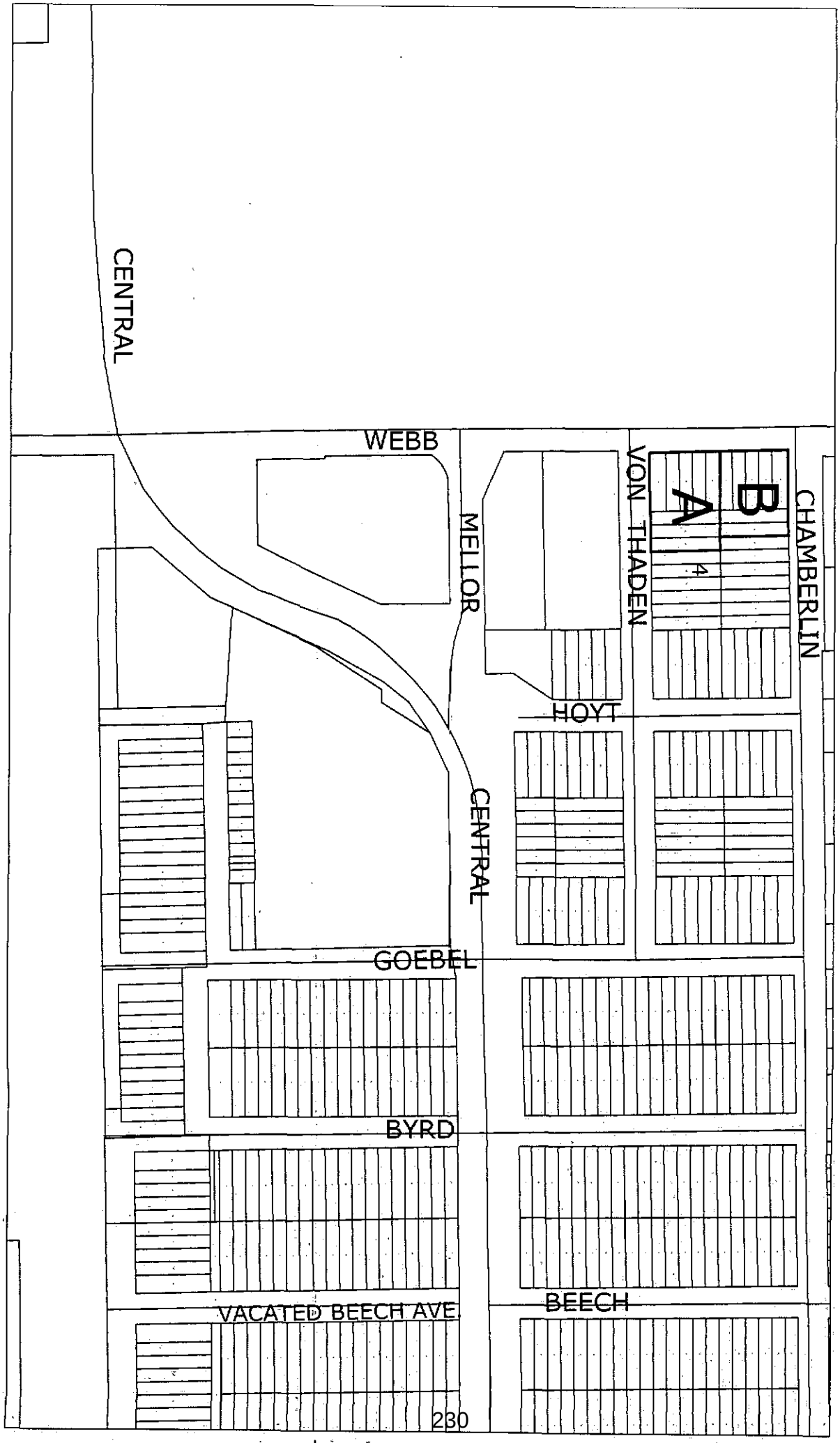
*Sanitary Sewer Utility

Lateral 177, WIS

468-84805

13. Recommendation: Approve the petition and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date


CENTRAL
WEBB
MELLOR
VON THADEN
CHAMBERLIN
A
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HOYT
CENTRAL
GOEBEL
BYRD
VACATED BEECH AVE
BEECH

4

RECEIVED

NOV 29 '11

CITY CLERK OFFICE

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:

Lateral 177, WIS 468-84805

PARCEL 'A'
Lots 17 through 24, Block 4,
Travel Air City Addition

PARCEL 'B'
Lots 25 through 31, Block 4,
Travel Air City Addition

(North of Central, East of Webb)

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.

(b) That the estimated and probable cost of the lateral sanitary sewer is Fifty-Six Thousand Dollars ($56,000) 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 December 1, 2011.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the 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 ½ of the total cost of the improvements, and PARCEL "B" shall pay ½ 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' **PARCEL 'B'**	Triple J of Wichita, LLC By: _____ Ronald J. Cornejo, Manager	11/29/11

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.

Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 29 day of November 2011.

Deputy City Clerk

TRAVEL AIR CITY ADDITION

Wichita, Sedgwick County, Kansas

SANITARY SEWER

Benefit District: (2 Fractions)
Lots 17-24, Block 4 (1 Fraction)
Lots 25-31, Block 4 (1 Fraction)

Cost Estimate:

Item	Quantity	Unit	Unit Price	Amount
8" Pipe	470	L.F.	$32.00	$15,040.00
Manhole	3	EA.	$3,000.00	$9,000.00
Pumping	1	L.S.	$3,000.00	$3,000.00
Pipe Removed	150	L.S.	$3,000.00	$3,000.00
Pavement Removed/Replaced	60	S.Y.	$50.00	$3,000.00
Easement Grading	1	L.S.	$2,000.00	$2,000.00
Erosion Control	1	L.S.	$1,000.00	$1,000.00
Site Clearing and Restoration	1	L.S.	$5,000.00	$5,000.00
Subtotal				$41,040.00
+ 35 % Design, Insp., & Administration				$14,364.00
Total				$55,404.00

Petition Amount	**$56,000**	
Cost per Fraction	**$28,000**	
Average Monthly Assessment	**$221**	**(Based on 15 years @ 5 %)**

11/23/2011
SS Ph 1

132019

First Published in the Wichita Eagle on January 13, 2012

RESOLUTION NO. 12-010

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 177, WAR INDUSTRIES SEWER (NORTH OF CENTRAL, EAST OF WEBB) 468-84805** 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 177, WAR INDUSTRIES SEWER (NORTH OF CENTRAL, EAST OF WEBB) 468-84805** 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 177, War Industries Sewer (north of Central, east of Webb) 468-84805.**

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 **Fifty-Six Thousand Dollars ($56,000)** 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 **December 1, 2011,** 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:

PARCEL 'A'
Lots 17 through 24, Block 4
Travel Air City Addition

PARCEL 'B'
Lots 25 through 31, Block 4
Travel Air City Addition

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 1/2 of the total cost of the improvements, and PARCEL "B" shall pay 1/2 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 10th day of January, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
DIRECTOR OF LAW

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Relocation of Kansas Gas Service Pipe Line (Kellogg/151st Street West Intersection) (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the reimbursement agreement.

Background: On January 6, 2009, the City Council approved a design concept for the Kellogg Freeway, from 111th Street West to 151st Street West. The project will include frontage roads from 143rd Street to 151st Street. Kansas Gas Service has a pipeline at 151st Street that is in conflict with the City's project. The pipeline is located in a private easement. The Company has indicated that it will relocate its pipe line to accommodate the City's project if the City reimburses the Company for all of its actual costs, both direct and indirect.

Analysis: An agreement has been prepared for the relocation. The work will be performed by Kansas Gas Service.

Financial Considerations: The estimated total cost is $124,985. It is acknowledged that the actual cost may be greater or less than the estimate. Funds are available in the approved project budget. The funding source is the Local Sales Tax.

Goal Impact: This project addresses the Efficient Infrastructure goal by continuing the improvement of Kellogg to a freeway.

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

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

Attachments: Agreement.

UTILITY AGREEMENT

Dated: _____

Sedgwick County

City of Wichita Project: 472-84840

General Location: US 54/400 (Kellogg Ave) @ W 151st Street

THIS AGREEMENT is entered into between the City of Wichita (City) and Kansas Gas Service, a Division of ONEOK, Inc. (Company).

WHEREAS, the City proposes a highway improvement project on Highway No. 54 and W 151st Street, described above by Project Number and Location and shown on the Project Plans, and

WHEREAS, the Company is owner of certain facilities located between 151st Street Stations 7+50 and 34+50 as shown on the Project Plans (facilities) and these facilities are located on private right-of-way, in whole or in part, and not now entirely located upon existing highway right-of-way, and

WHEREAS, the Company's facilities need to be adjusted, altered, or relocated so the City may construct the Project and the Company may maintain its present services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree:

1. Upon receipt of formal written authorization from the City, the Company will proceed without unnecessary delay to make the changes to its facilities described in Exhibit A - Piping (utility plans) in accordance with Paragraph 17 of this Agreement. The Company prepared Exhibit A - Piping, which is attached to and incorporated into this Agreement.

2. Company certifies that its facilities are located on private right-of-way, in whole or in part, and are not now located entirely upon existing highway right-of-way or other public property. The estimated costs of right-of-way, preliminary engineering, labor, equipment, materials issued, materials returned, overhead and other items, as well as any credits which may be due the City for Company elected betterments, salvaged materials and extended service life (where applicable) are listed in detail on Exhibit B - Piping. The Company has included in Exhibit B - Piping all estimated costs anticipated in relocating those parts of the Company's facilities (4", 6", and 8" pipe) affected by City Highway Project 472-84840.

See Paragraph 17 D for City's pro rata share of total costs.

Exhibit B - Piping is attached to and incorporated into this Agreement.

Noted: _____ for Company _____ for City

3. This Agreement is subject to and the Parties agree to comply with 23 C.F.R. Part 645 Subpart A ("Utility Relocations, Adjustments, and Reimbursement") (23 C.F.R. 645.101 *et seq.*), 23 C.F.R. Part 645 Subpart B ("Accommodation of Utilities")(23 C.F.R. 645.201 *et seq.*), and the current Kansas Department of Transportation Utility Accommodation Policy (UAP). The UAP is incorporated by reference into this Agreement.

4. The City grants the Company the right to locate and maintain its facilities upon highway right-of-way as shown on said Exhibit A - Piping.

5. If future road work requires any changes to or relocations of Company's facilities, previously located on private right(s)-of-way but now located upon highway right-of-way as shown on Exhibit A - Piping, the City will pay the cost of such changes or relocations.

6. The Company's easement rights or other interests in the property included in the proposed highway right-of-way as shown on Exhibit A - Piping are subordinate to the City's right and privilege to use the highway right-of-way without restriction or limitation as long as the City is using such right-of-way for public highway purposes. The City's rights extend to all air rights, surface rights, and below-surface rights appropriate for the construction, operation, and maintenance of the highway. Providing the Company does not interfere with highway construction, operation, and maintenance, the Company may maintain its relocated or altered facilities; construct additional facilities under, over, through, and across the property if the Company's easement allows such construction; or perform any other act the Company's easement allows. In exercising its rights, the Company shall conform to all federal and state law, statutes, and regulations.

7. Company certifies and has provided evidence showing the Company has right of occupancy on private right-of-way by holding the fee, an easement, or other property interest. Company certifies that no deed, easement, agreement, or other document granting Company's existing right of occupancy on the private right-of-way requires Company to relocate its facilities for public purposes at Company's own expense.

8. City certifies that payment for the utility relocation does not violate Kansas law or any existing contract between the Company and the City.

9. Company shall notify the City of Wichita's City Engineer at Wichita, Kansas by phone, Mike Jacobs, (316) 268-4235 five days in advance of the time it expects to start work under this Agreement.

10. The Company shall notify Mike Jacobs, City of Wichita's City Engineer in charge of said project when beginning, discontinuing, resuming, and upon completing the work.

11. The method of computing the actual relocation costs shall be:

Actual and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by 23 C.F.R. 645 Subpart A.

12. Company shall keep a detailed and accurate account of all labor, materials, supplies, incidentals, and all other costs involved in performing the work for three years after the date the Company receives final payment. City Engineer in charge of said project or any authorized agent of City or the Federal Highway Administration (FHWA) shall have access at all times to such records.

13. Upon completion of the work in accordance with said plans and estimates and upon receipt of a detailed final statement of cost prepared in accordance with the 23 C.F.R. 645 Subpart A, the City will reimburse the Company for 95% of the total amount of final billing pending final audit. Upon completion of final audit, the City will reimburse the Company for the total amount of the final billing found eligible for payment by audit by the City and/or FHWA. It is fully understood by and between the parties hereto that the required work in connection with the Company's facilities may be directly related to a City of Wichita road project providing for Federal reimbursement of a percentage of the cost. It is further agreed and understood that the Company will reimburse the City, on demand, any sums disallowed to the City by the Federal Highway Administration, for non-compliance by the Company with the terms and conditions set out in the 23 C.F.R. 645 Subpart A, hereinbefore referred to. Local governmental units and Indian Tribal governments shall comply with OMB A-128.

14. At Company's request, the City will reimburse the Company for 95% of the cost reflected on monthly progress statements for partially completed work. However, the Company shall submit no monthly progress statement with an amount earned of less than $50,000. The Company shall submit supporting statements with the Company's request for such intermediate progress payments.

After the Company completes the work according to the utility plans and after the City receives a detailed final cost statement that complies with 23 C.F.R. 645 Subpart A, the City will reimburse the Company for 95% of the total amount of final billing less intermediate progress payments, pending final audit. Upon completing the final audit, the City will reimburse the Company the total amount of the final billing that City and/or FHWA find eligible for payment by audit less intermediate progress payments.

The work required in this Agreement is being funded in whole or in part with federal funds. The Company will reimburse the City any sums disallowed under 23 C.F.R. Part 645 or under 48 C.F.R. Part 31 ("Contract Cost Principles and Procedures") (48 C.F.R. 31.000 *et seq.*). Sums disallowed include expenses paid for relocating the Company's facilities from existing highway right-of-way or other public property to the proposed highway right-of-way and expenses paid when the Company had an existing obligation to relocate at its own expense, among others. Local governmental units and Indian Tribal governments shall comply with OMB A-128.

15. To be eligible for reimbursement, changes in the original scope of work or additional adjustments not covered in Paragraph 17 of this Agreement shall be submitted on a supplemental agreement (or change order) and approved by the Company and the City before the Company makes such changes or adjustments.

16. Additional costs or revision in ratio or participation resulting from changes or adjustments under Paragraph 15 will become effective with submission of a final change order prior to or concurrent with final billing. Approval of such change order and/or ratio of participation will place the billing in line for audit and payment.

17. A. Description of work to be performed:

Relocate 160' of 8", 464' of 6", and 544' of 4" steel natural gas pipeline and appurtenances thereto to clear the proposed highway construction as shown on Exhibits A and B.

B. Method of accomplishing work shall be by Contract. (The Company has furnished the City with evidence that it is not adequately staffed or equipped to perform the work and agrees to comply with 23 C.F.R. 645 Subpart A.)

C. Estimated total cost of work to be accomplished is $124,984.63.

D. The percentage of total actual costs of completed work to be borne by the City is 100%. Salvage value to be credited to project.

E. Time for Completion of Work: 150 days after receipt of Authorization to Proceed from the City, unless extended for unusually severe weather. Unusually severe weather is adverse weather that at the time of year in which it occurred is abnormal for the place in which it occurred.

F. The Company or the Company's contractor will furnish and erect the required traffic control signing and devices according to the attached Exhibits and the "Manual of Uniform Traffic Control Devices".

G. Special Provisions:

"All backfill within the highway right-of-way limits is to be compacted to a density equal to or greater than the density of the surrounding soil."

18. The Company shall maintain and pay all expenses necessary to maintain the Company's facilities located within the right-of-way of Project No. 472-84840. The Company shall take necessary and reasonable safety measures to protect the traveling public.

If the Company's maintenance obligation requires work within the highway right-of-way, the Company shall first obtain a written work permit from the proper authority. This permit shall contain reasonable regulations relating to such maintenance.

The Company may open and disturb the surface of the highway right-of-way without a work permit if an emergency exists that endangers the public's safety and requires immediate preventive action or repair. Immediately upon discovering the emergency, the Company shall notify the Kansas Highway Patrol, the KDOT Bureau of Construction and Maintenance, and the City of Wichita. The Company shall request a work permit from the proper authority no later than the second working day following the emergency.

The Company shall not service its facilities from the highway, highway shoulder, or highway ramps. Exception: if an emergency exists that makes other ingress and egress temporarily impossible, the Company may use the surfaced area of the highway right-of-way to approach the distressed lines or facilities and the Company may use the surfaced shoulder for temporary parking.

19. The Company agrees to hold the City and the City's authorized representatives harmless from and indemnify the City for all claims, suits, damages (whether property damages, personal injury damages, or economic damages) and costs (reasonable attorney's fees and defense costs) resulting from the Company's failure to comply with its contract obligations under this Agreement, resulting from the Company's negligent acts, errors, or omissions in relocating its facilities as provided in Paragraph 17, or all of the above. The Company's liability for personal injuries and property damage shall not exceed the liability limits in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.* The Company shall have no obligation to hold the City or the City's authorized representatives harmless from and indemnify these persons for the City's or the City's representatives' own negligence.

20. The City agrees to hold the Company and the Company's authorized representatives harmless from and indemnify the Company for all claims, suits, damages (whether property damages, personal injury damages, or economic damages) and costs (reasonable attorney's fees and defense costs) resulting from the City's failure to comply with its contract obligations under this Agreement. The City's liability for personal injuries and property damage shall not exceed the liability limits in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.* The City shall have no obligation to hold the Company or the Company's authorized representatives harmless from and indemnify these persons for the Company's or the Company's representatives' own negligence.

21. Kansas law governs this Agreement.

22. Kansas law (K.S.A. 46-239(c)) requires this agency to report all contracts entered into with any legislator, or any member of a firm of which a legislator is a member, under which the legislator or member of the firm is to perform services for this agency for compensation. Consequently, please indicate below if this contract is being entered into with a legislator or a firm in which a legislator is a member.

_____ Yes, this contract is with a legislator or a firm in which a legislator is a member.

That legislator is: _____

Business Phone _____

Address (Street, City, State, Zip Code)

_____

_____

X No, this contract is not being entered into with a legislator or a firm in which a legislator is a member.

23. This Agreement creates no third party beneficiaries and authorizes no third party to maintain a suit for damages under this Agreement as a third party beneficiary or in any other capacity.

24. This Agreement binds the Parties and the Parties' successors and assigns.

25. In signing this Agreement, the Parties and the individual person signing represent that the person signing has the authority and capacity to execute and legally bind the respective entity to this Agreement.

Executed by the COMPANY this

____ day of _____ 2012

COMPANY: Kansas Gas Service.

BY: _____
Teryl C Rose

TITLE: VP West Region Kansas Gas Service

ATTEST:

BY: _____

FEIN # 73-1520922

Send checks to: Kansas Gas Service
C/O Rachel Glover
1021 E 26th N
Wichita, KS 67219

Executed by the CITY this

_____ day of _____ 2012

CITY OF WICHITA

BY: _____
Carl Brewer
Mayor, City of Wichita

ATTEST:

BY: _____

APPROVED AS TO FORM:

GARY ~~E.~~ REBENSTORF
DIRECTOR OF LAW

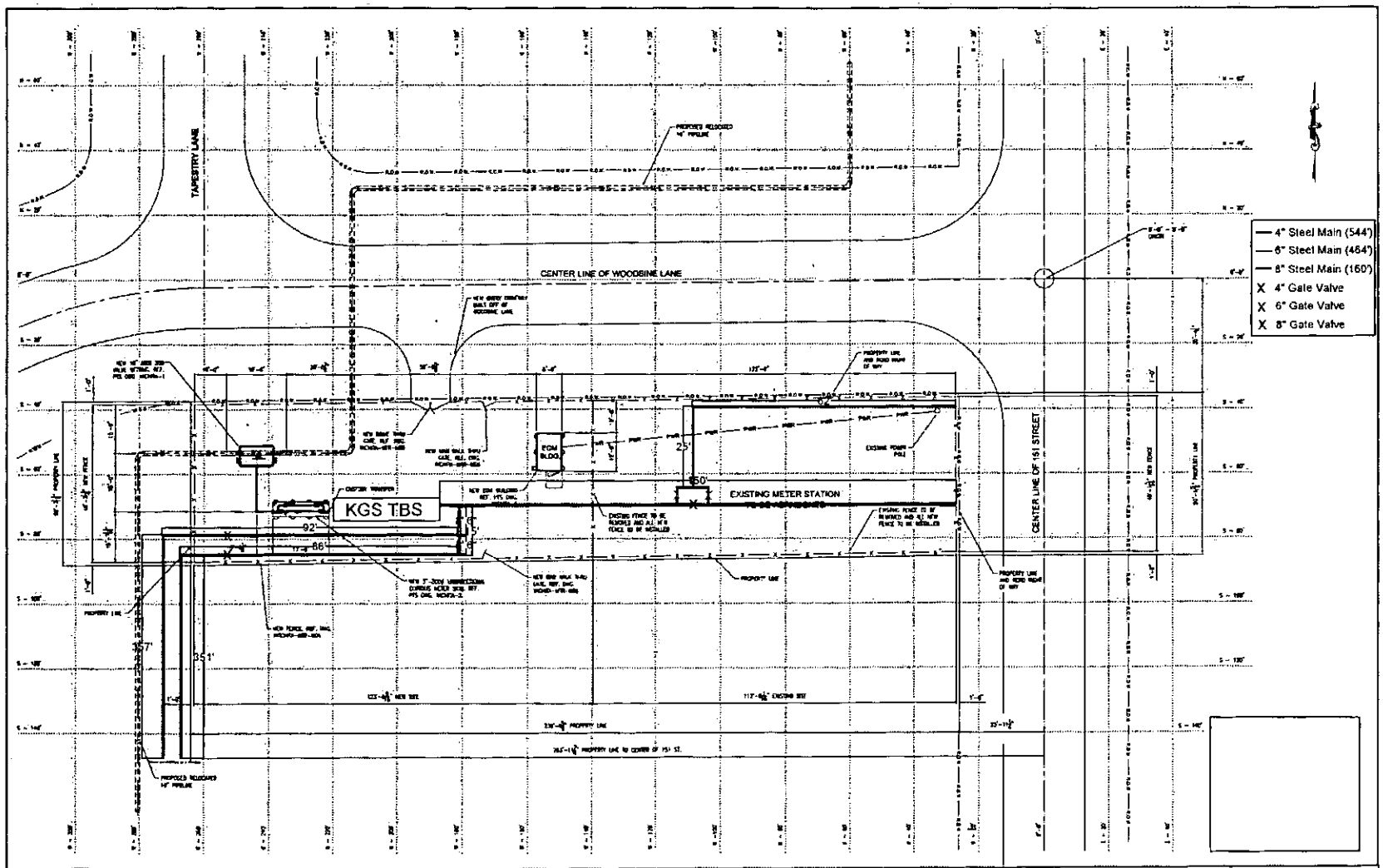


Exhibit A - Piping

Kansas Gas Service

Exhibit B – Piping

	Current Estimates Quantity	Unit Cost	Cost	Total Cost
Project Management				$ 8,202.00
Project Inspection			$ 7,402.00	
Vehicle Maintenance/Fuel			$ 800.00	
Material				$ 43,519.37
8.625" OD, 16.96#/FT, .188" wt, X-42, ERW	160 ft	$ 18.72	$ 2,995.92	
6.625" OD, 18.99#/FT, .280" wt, X-42, ERW	464 ft	$ 20.79	$ 9,646.56	
4.50" OD, 10.80#/FT, .237" wt, X-42, ERW	544 ft	$ 11.23	$ 6,110.21	
8" Gate Valve, 720# WOG	1 ea	$ 4,872.73	$ 4,872.73	
6" Gate Valve, 500# WOG	3 ea	$ 1,708.83	$ 5,126.49	
4" Gate Valve, 500#WOG	1 ea	$ 929.52	$ 929.52	
8" 3-Way Tee, SCFD, Flanged	1 ea	$ 2,138.49	$ 2,138.94	
6" 3-Way Tee, SCFD, Flanged	1 ea	$ 1,193.54	$ 1,193.54	
4" 3-Way Tee, SCFD, Flanged	2 ea	$ 568.01	$ 1,136.03	
Miscellaneous Material	1 lot	$ 9,369.45	$ 9,369.45	
Construction				$ 33,189.00
Labor - Contractor			$ 33,189.00	
Contingencies (10%)				$ 7,670.84
TOTAL COST				$ 92,581.21
Admin & General (35%)				$ 32,403.42
TOTAL COST W/A&G				$ 124,984.63
Financial Responsibility:				
Reimbursement of 100% of actual costs by City of Wichita				$ 124,984.63

Estimate prepared by Rachel Glover
for Kansas Gas Service

[20 - 30]
[25 - 45]
(55) 30

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Kellogg/Greenwich Interchange (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the City/State agreement.

Background: The Capital Improvement Program adopted by the City Council includes funding for East Kellogg improvements. On January 12, 2009, the City Council approved the design concept for an interchange at Kellogg and Greenwich. The Kansas Department of Transportation (KDOT) has agreed to participate in the project funding as part of the T-WORKS Program. T-WORKS is a State-wide 10 year transportation program administered by KDOT. An agreement has been prepared that establishes the basis for the joint funding.

Analysis: The project will consist of a six lane Kellogg freeway, with one-way frontage roads and an interchange at Kellogg and Greenwich.

Financial Considerations: The agreement provides that Wichita will contribute $8,400,000 for the cost of construction. KDOT will fund all construction costs that exceed $8,400,000. Currently, the State contribution is estimated at $75,600,000. The funding source for the City share is the Local Sales Tax.

Goal Impact: This project addresses the Efficient Infrastructure goal by continuing the effort to upgrade Kellogg to a freeway through Wichita.

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.

Attachment: Agreement.

PROJECT NO. 54-87 KA-2389-01
ACNHS-A238(901)
RECONSTRUCTION
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation**, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary has authorized a project, hereinafter referred to as the "Project." The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets in the City utilizing federal funds. The City desires to construct the Project on Kellogg Ave in the City.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Reconstruction of Kellogg Avenue/US-54 in the City to a 6-lane freeway section with frontage roads from Wiedemann to 127th Street with an interchange at Greenwich St..

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of the Kansas Department of Transportation and as required by Federal Highway Administration directives such that the City may obtain participation of federal funds in the cost of the Project.

2. To reimburse the City for one hundred percent (100%) of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering for the Project that exceeds the City's $8,400,000.00 contribution to the Project. The Secretary agrees to make partial payments to the City for amounts not less than $1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer employed by the City that the Project is being constructed within substantial compliance of the plans and specifications. The

Secretary shall not be responsible for the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

ARTICLE II

THE CITY AGREES:

1. To make or contract to have made design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, to let the contract, to construct the Project in accordance with the design plans, specifications, supervise the construction and administer the payments due the contractor, including the portion of cost borne by the Secretary. The City agrees to furnish the Secretary one (1) set of mylar plans, at the City's expense, for his or her records. The City further agrees the specifications will require the contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.

2. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

3. To design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Project Development Manual for Non-National Highway System Local Government Road and Street Projects, Volume I, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Traffic Engineering's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the Federal Highway Administration pertaining thereto.

4. Upon completion thereof, the design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project shall be submitted to the Secretary by a licensed professional engineer attesting to the conformity of the design plans with the items in paragraph 3 above. Contracts between the City and any consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement shall contain language requiring conformity with paragraph 3 above. In addition, any contract between the City and any consultant retained by them to do the design for the Project covered by this Agreement shall also contain the following:

a. Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the consultant's control.

b. Language requiring the consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.

c. Language making the Secretary of Transportation of the State of Kansas a third party beneficiary in the agreement between the city/county and the consultant. Such language shall read:

Because of the Secretary of Transportation of the State of Kansas' (Secretary's) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this provision precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement.

5. The City and any consultant retained by the City shall have the sole responsibility for the adequacy and accuracy of design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Any review of these items that may be performed by the Secretary or his or her representatives is not intended to and shall not be construed to be an undertaking of the City's and its consultant's duty to provide adequate and accurate design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Such reviews are not done for the benefit of the consultant, the construction contractor, the City, or other political subdivision, nor the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the consultant or the City.

6. A duly appointed representative of the City is authorized to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project undertaken under this Agreement. The design plans must be signed and sealed by the licensed professional engineer responsible for preparation of the design plans. Geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies. Rights of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the rights of way descriptions.

7. It will, in its own name as provided by law, acquire by purchase, dedication or condemnation all of the rights of way, easements and access rights shown on the final design plans in accordance with the schedule established by the Kansas Department of Transportation. The City agrees the necessary rights of way, easements, and access rights shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary such rights of way, easements and access rights have been acquired. The

City further agrees they will have recorded in the Office of the Register of Deeds all rights of way deeds, dedications, permanent easements and temporary easements.

8. To contact the Secretary if there will be any displaced persons on the Project prior to making the offer for the property. The Parties mutually agree the City will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive and Kansas Administrative Regulations 36-16-1 *et seq.*

9. To provide all legal descriptions required for right of way acquisition work. The City further agrees to acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of the Kansas Department of Transportation and as required by Federal Highway Administration directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents including recommendations and coordination for appeal, bills, contracts, journal entries, case files or documentation requested by the Office of Chief Counsel will be sent to the Office of Chief Counsel within the time limits set by the Secretary.

10. To provide Secretary a full and complete set of right of way plans and a copy of all deeds executed for the Project.

10. If federal funds are used in the acquisition of the rights of way, any disposal of or change in the use of right of way or in the access after Project construction will require prior written approval by the Secretary.

11. It will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing structures, pole lines, pipe lines, meters, manholes and other utilities, publicly or privately owned, which may be necessary to construct the Project in accordance with the final design plans. New or existing utilities that are installed, moved or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.

Except as provided by state and federal laws, the expense of the removal or adjustment of the utilities located on public right of way shall be borne by the owners. The expense of the removal or adjustment of privately owned utilities located on private rights of way or easement shall be borne by the City except as provided by state and federal laws.

12. It will expeditiously take such steps as are necessary to facilitate the early adjustment of utilities, will initiate the removal or adjustment of the utilities, and will proceed with reasonable diligence to prosecute this work to completion. The City further agrees to move or adjust or cause to be moved or adjusted all necessary utilities sixty (60) days prior to the scheduled construction letting except those necessary to be adjusted during construction and those which would disturb the existing street surface. The City further agrees to certify to the Secretary on forms supplied by the Secretary all utilities required to be moved prior to construction have either been moved or a date provided by the City as to when, prior to construction, they will be moved. The City will initiate and proceed to complete adjusting the remaining utilities that are not required to be moved during construction in order the contractor shall not be delayed in construction of the Project.

The City will indemnify, hold harmless, and save the Secretary and the construction contractor for damages incurred by the Secretary and construction contractor because identified utilities have not been moved or adjusted timely or accurately.

13. To certify to the Secretary all privately owned utilities occupying public rights of way required for the construction of the Project are permitted thereon by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations that may be required as a result of street or highway improvements.

14. It shall determine the manner in which traffic is to be handled during construction in accordance with the latest version, adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD).

15. To let the contract for the Project and shall award the contract to the lowest responsible bidder upon concurrence in the award by the Secretary. The City further agrees to administer the construction of the Project in accordance with the final design plans, in the manner required by the Federal Highway Administration and the current version of the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas, and administer the payments due the contractor, including the portion of the cost borne by the Secretary and the City. Decisions about what construction costs are federal participating will be made in accordance with the requirements of the Federal Highway Administration.

16. To require the contractor to pay prevailing wages. The City will incorporate into the construction contract the current general wage decision for the county in which the Project is being constructed. The City will obtain the mandatory Required Contract Provisions from KDOT and incorporate it into the construction contract. The City may obtain the current wage decision from the KDOT Bureau of Construction and Maintenance, Topeka, Kansas.

17. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the City will defend, indemnify, hold harmless, and save the Secretary 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 arising out of or in connection with the provisions or performance of this Agreement by the City, the City's employees, agents, or subcontractors. The City shall not be required to defend, indemnify, hold harmless, and save the Secretary for negligent acts or omissions of the Secretary or his or her authorized representatives or employees.

18. To require the contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

19. To provide (or have provided by a consultant who is certified in construction inspection areas applicable to this Project) the construction inspection in accordance with the rules and guidelines developed for the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas. Any subsequent changes to the Project Procedures Manuals by the City during the construction engineering inspection of the Project will require

prior approval of the changes by the Secretary.

The project plans, specifications, special provisions, Construction Contract Proposal (as available), the Project Procedures Manuals, the agreement estimate for construction engineering services (if applicable) and other Special Attachments (Index provides List of Special Attachments) are all essential documents of this Agreement and are hereby incorporated by reference into this Agreement and are a part thereof.

If the City does not have sufficient qualified engineering employees to accomplish the construction engineering inspection services on this Project, it may engage the professional services of a qualified consulting engineering firm to do the necessary construction engineering inspection services. However, any consultant retained must represent it is in good standing and full compliance with the statutes of the State of Kansas for registration of professional engineers, the Federal Highway Administration and all Federal agencies, provide personnel who are fully qualified to perform the services in a competent and professional manner, and provide the Secretary with a list of assigned inspectors and their certifications. The City may provide personnel who are fully qualified to perform the services in a competent and professional manner, but must provide the Secretary with a list of assigned inspectors and their certifications.

If funding is available and the City elects to use the funds for construction engineering inspection services on this Project, another agreement shall be specifically written for the construction engineering inspection services on this Project.

The City will require at a minimum all personnel, whether City or consultant to comply with the high visibility apparel requirements of the *KDOT Safety Manual*, Chapter 4, Section 8 Fluorescent Vests. If the City executes an agreement for inspection, the agreement shall contain this requirement as a minimum. The City may set additional clothing requirements for adequate visibility of personnel.

20. To be responsible for $8,400,000.00 of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

21. To be responsible for one hundred percent (100%) of any Project costs incurred by the City for the Project prior to the funding for the Project being authorized, obligated, and approved by the Federal Highway Administration.

22. To adopt an ordinance requiring the removal of all encroachments either on or above the limits of the right of way shown on the final design plans for this Project, and it will initiate and proceed with diligence to remove or require the removal of the encroachments. It is further agreed all such encroachments be removed before the Project is advertised for letting (provided, however, if the Secretary is satisfied, with respect to any encroachment, the physical removal thereof has been fully provided for between the City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, the Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). The City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the rights of way of the Project and will require any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than twelve (12) feet back of the right of way line. All rights of way provided for the Project shall be used solely for public street purposes and no

signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the right of way limits except as provided by state and federal laws.

23. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

24. To locate and be responsible for all costs necessary to remedy or clean up any hazardous waste site, including, but not limited to, leaking underground storage tanks discovered on rights of way, easements and access rights acquired by the City. The City shall be responsible to the Secretary for all damages, fines or penalties, expenses, claims and costs incurred by the Secretary from any hazardous waste site discovered on rights of way, easements and access rights acquired by the City prior to commencement of construction of the Project. The City shall take appropriate action to contain or remediate any identified hazardous waste site within the Project limits prior to letting of the Project. The City will investigate any and all hazardous waste sites discovered during construction of the Project on City owned land within the Project boundary and shall take appropriate action to contain or remediate such hazardous waste sites.

For any hazardous waste site, including, but not limited to, leaking underground storage tanks, the City shall hold harmless, defend and indemnify the Secretary, its agents and employees against and from all damages, expenses and costs incurred by any person, the State of Kansas, or the United States Government for determining and undertaking remedial action, any fines or penalties assessed under state or federal laws, contract claims, personal injury claims, and damage of or loss of natural resources.

It is specifically agreed between the Parties executing this Agreement any provision of this hazardous waste clause is not intended to make the public, or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party of this Agreement to maintain a suit for personal injuries, property damages, or hazardous waste claims. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed by law.

The City, by signing this Agreement with the Secretary has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any hazardous waste on any rights of way, easements, and access rights acquired by the City. The City reserves the right to bring any action against any third party for any hazardous waste site on any rights of way, easements, and access rights acquired by the City.

The term hazardous waste includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, are incorporated by reference and include but not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 1990 Supp. 65-3431 *et seq.*, Hazardous Waste.

The standards to establish cleanup of a hazardous waste site include, but is not limited to, federal programs administered by the E.P.A., State of Kansas environmental laws and regulations, and City and

county standards where the hazardous waste site is located.

25. To control parking of vehicles along the Project throughout the length of the improvement covered by this Agreement. On-street parking will be permitted until such time as parking interferes with the orderly flow of traffic along the street.

26. The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may safely and expeditiously be served and shall adopt and enforce such rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the Federal Highway Administration.

27. To maintain the control of access rights and to prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final design plans, unless prior approval is obtained from the Secretary.

28. To control the construction or use of any entrances along the Project within the City including those shown on the final design plans.

29. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, shall conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to the approval of the Secretary.

30. It is the policy of the Secretary to make any final payments to the City for services related to the Highway program in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit Organizations" in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

The Secretary may pay any final amount due for the authorized work performed based upon the City's most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT's Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

31. If they have not already done so, the City shall obtain a D-U-N-S number (Dun & Bradstreet Number). A D-U-N-S number can be obtained at the following website: http://www.dnb.com/us/duns_update/.

32. The City agrees it shall maintain current registrations in the Central Contractor Registration (http://www.ccr.gov) at all times during which they have active federal awards.

33. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of the KDOT and all costs incurred

by the City not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

34. When the Project is completed and final acceptance is issued, it will, at its own cost and expense, maintain the portion of the Project that is comprised of City streets, and will make ample provision each year for said maintenance. Upon notification by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed. Additionally, The Secretary and City have in the past entered into an agreement covering routine maintenance of the city connecting link, and it is the intention of the Secretary and the City the agreement for routine maintenance shall be updated at the end of the Project to reflect any change in the maintenance responsibilities of the respective Parties due to this Project.

35. If it cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary's statement of the cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE III

THE PARTIES MUTUALLY AGREE:

1. The final design plans for the Project are by reference made a part of this Agreement.

2. If any items are found to be non-participating by the Secretary, acting on his or her own behalf and on behalf of the Federal Highway Administration, the total cost of these items will be paid for by the City.

3. Representatives of the Secretary may make periodic inspection of the Project and the records of the City as may be deemed necessary or desirable. The City will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of federal participation. The Secretary does not undertake (for the benefit of the City, the contractor, the consultant, or any third party) the duty to perform the day-to-day detailed inspection of the Project, or to catch the contractor's errors, omissions, or deviations from the final design plans and specifications.

4. It is the policy of the Secretary to make final payments to the City in a timely manner. The Single Audit Standards set forth in federal O.M.B. Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" that require the City to comply in accordance with those standards.

The Secretary may pay the final amount due for authorized work performed based upon the City's most recent "Single Audit Report" available and a desk review of the claim by the Contract Audit Section of the Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Secretary and the City agree that as the "Single Audit Report" becomes available for the reimbursement period, the Secretary will review the "Single Audit Report" for items which are declared as not eligible for reimbursement. The City agrees if payment has been made to the City for items subsequently found to be not eligible for reimbursement by audit, the City will refund to the Secretary the total amount of monies paid for

same.

5. The City agrees to comply with all appropriate state and federal laws and regulations for this Project.

6. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

7. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary, the City, and their successors in office.

8. No third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms of provisions of this Agreement.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

_____
CITY CLERK (Date)

_____
MAYOR

(SEAL)

Kansas Department of Transportation
Debra L. Miller, Secretary of Transportation

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

APPROVED AS TO FORM:

GARY ~~E.~~ REBENSTORF
DIRECTOR OF LAW

State of Kansas
Department of Administration
DA-146a (Rev. 10-11)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation**: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause**: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

KANSAS DEPARTMENT OF TRANSPORATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.

2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.

5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.

6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,

   (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or

   (b) cancellation, termination or suspension of the contract, in whole or in part.

7) Disadvantaged Business Obligation

   (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.

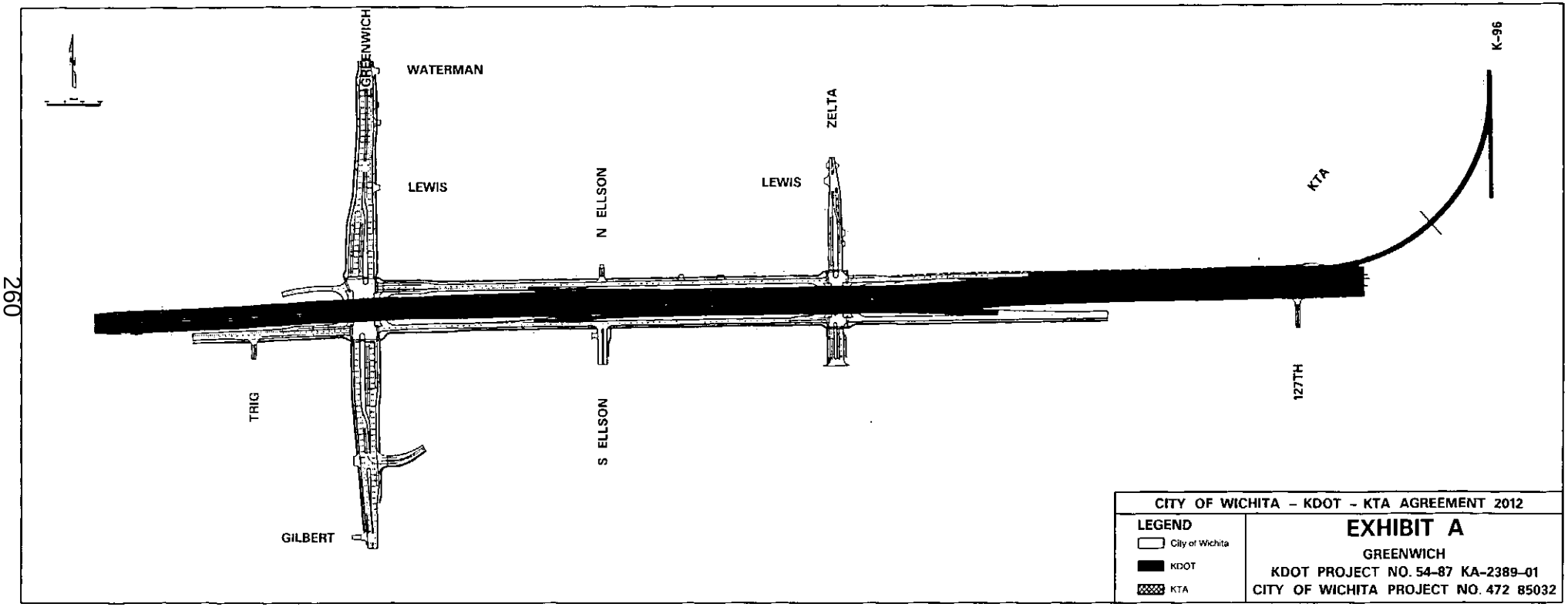
   (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.

   (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

8) Executive Order 12898

   (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.

9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.


GREENWICH
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CITY OF WICHITA - KDOT - KTA AGREEMENT 2012
LEGEND
City of Wichita
KDOT
KTA
EXHIBIT A
GREENWICH
KDOT PROJECT NO. 54-87 KA-2389-01
CITY OF WICHITA PROJECT NO. 472 85032

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Kellogg/I-235 Interchange (Districts IV and V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve city/county/state agreement.

Background: The Kansas Department of Transportation (KDOT) has the design 50% complete to improve the intersection of Kellogg and I-235 Freeway. KDOT is responsible for design, right-of-way acquisition, letting, and construction administration for the project. A part of the project limits will be within City of Wichita right-of-way. An agreement has been prepared to permit KDOT to use the right-of-way as needed for the project in accordance with the final, approved construction plans.

Analysis; The project will provide a system to system interchange that will significantly improve traffic flow and safety.

Financial Considerations: The project is jointly funded by KDOT and Sedgwick County.

Goal Impact: The project addresses the Efficient Infrastructure goal by providing an improved interchange at Kellogg and I-235.

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.

PROJECT NO. 235-87 KA-0161-04
ACIM-2351(197)
INTERCHANGE IMPROVEMENTS
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation**, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita Kansas, hereinafter referred to as the "City,"

Sedgwick County, Kansas, hereinafter referred to as the "County,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary has authorized an interchange improvement project, hereinafter referred to as the "Project." The Parties are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of the State Highway System through the City. The Secretary desires to construct the Project on I-235 and US-54. The City agrees to the Project in the City. The Parties desire to enter into an Agreement to make improvements to the state highway through the use of state or federal funds or a combination of state and federal funds.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of a Project for the improvement of I-235 and US-54in the City and is described as follows:

Reconstruction of the I-235/US-54/US-400/Kellogg Ave interchange.

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the _____ day of _____ 20____.

ARTICLE I

THE SECRETARY AGREES:

1. The Project shall be undertaken and completed by the Secretary except as otherwise modified by this Agreement.

2. In the name of the Secretary, to perform appraisal and acquisition work including condemnation, if necessary, for rights of way and easements as shown on the Project plans. All costs

for rights of way and easements as shown on the Project plans will be paid for with state funds or federal funds or a combination of state and federal funds.

3. To receive and disburse all funds directly to the Parties involved in acquisition of rights of way and easements.

4. To prepare the Project plans, let the contract for the Project and administer the construction of the Project as required by the Federal Highway Administration to negotiate with and report to the Federal Highway Administration and administer the payments due the contractor.

5. All construction items included in the Project plans shall be paid for with state funds, federal funds and County funds or a combination of state and federal and County funds.

6. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the Secretary will defend, indemnify, hold harmless, and save the City, County and their authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the Secretary, the Secretary's employees, agents, or subcontractors. The Secretary shall not be required to defend, indemnify, hold harmless, and save the City and County for negligent acts or omissions of the City and County or their authorized representatives or employees.

7. To require the contractor to indemnify, hold harmless, and save the Secretary, the County and the City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary, the County or the City defends a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary, the County or the City or both incur in defending the claim.

8. To be responsible for one hundred percent (100%) of the total actual costs of construction (which includes the costs of all construction contingency items) that exceed $11,600,000.00. Furthermore, the Secretary shall be responsible for one hundred percent (100% of the total actual costs of construction engineering, preliminary engineering, rights of way, and utility adjustments for the Project.

ARTICLE II

THE CITY AGREES:

1. It shall, by resolution, authorize the Secretary to undertake and complete the Project within the corporate limits of the City.

2. The Secretary shall have the right to utilize any land owned or controlled by the City, lying inside or outside the limits of the City as shown on the final design plans, for the purpose of constructing the highway Project. Neither the Secretary nor the Federal Highway Administration

shall participate in the cost of these rights of way or easements, unless the Secretary determines the City will incur an unnecessary hardship. The City shall provide Secretary with a copy of all appropriate legal descriptions, deeds and easements for any land utilized by the Secretary. Further, the City acknowledges that providing these copies of the legal descriptions, deeds and easements by the City to the Secretary is an obligation of the City for this Agreement and construction of the Project.

3. To initiate and proceed with diligence, under City ordinance 10.04.010, the removal of all encroachments either on or above the limits of the right of way shown on the Project plans. It is further agreed all such encroachments be removed before the Project is advertised for letting (provided, however, if the Secretary is satisfied, with respect to any encroachment, the physical removal thereof has been fully provided for between the City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, the Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). The City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the rights of way of the Project, and it will require any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than 12 feet back of the right of way line. All rights of way provided for the Project shall be used solely for public highway purposes and no signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the rights of way limits except as provided by state laws.

4. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

5. To prohibit parking of vehicles on the city connecting link and on the acceleration and deceleration lanes of all connecting streets and highways and on additional portions of the connecting streets and highways the Secretary may deem necessary to permit free flowing traffic throughout the length of the improvement covered by this Agreement.

6. To maintain the control of access rights and to prohibit the construction or use of any entrance or access points along the Project other than those shown on the Project plans. The City agrees any exceptions therefrom must be approved by the Secretary.

7. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of the KDOT and all costs incurred by the City not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

8. The City and the Secretary shall determine the manner in which traffic is to be handled during construction. It is therefore agreed between the Parties that before Project plans have been completed, detour routes and street closings, if necessary, shall be agreed upon by authorized representatives of the City and the Secretary, and noted on the Project plans. If revisions to the

traffic handling plan are proposed during the progress of construction, the City and the Secretary shall approve such revisions before they become effective.

ARTICLE III

THE COUNTY AGREES:

1. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

2. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the County to any party outside of the KDOT and all costs incurred by the County not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

3. To be responsible for $11,600,000.00 of the total actual cost of construction (which includes the costs of all construction contingency items) for the Project. The County shall deposit with the Secretary $4,000,000.00 fifty (50) days after the letting date of the Project but no sooner than January 31, 2016. The County shall deposit with the Secretary an additional $4,000,000.00 one year after the letting date of the Project but no sooner than January 31, 2017. The County shall deposit with the Secretary an additional $3,600,000.00 two years after the letting date of the Project but no sooner than January 31, 2018. The County shall not be responsible for the total actual costs of construction engineering, preliminary engineering, rights of way, and utility adjustments for the Project.

4. To participate and cooperate with the Secretary in an annual audit of the Project. The County shall make its records and books available to representatives of the Secretary and/or the Federal Highway Administration for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with federal funds by the County for items considered non-participating, the County shall promptly reimburse the Secretary for such items upon notification by the Secretary.

ARTICLE IV

THE PARTIES MUTUALLY AGREE:

1. Under the terms of the Federal-Aid Highway Acts and the rules and regulations of the Federal Highway Administration, states and cities are, under certain circumstances, entitled to receive assistance in the financing of the construction and reconstruction of roads and streets, provided, however, in order to be eligible for such federal aid, such work is required to be done in accordance with the laws of the state of Kansas and federal requirements.

2. The Secretary will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing structures, pole lines, pipe lines, meters, manholes and other utilities, publicly or privately owned, which may be necessary to construct the Project in accordance with the final design plans. New or existing utilities to be installed, moved or adjusted will be located or relocated in accordance with the current version of the Kansas Department of Transportation Utility Accommodation Policy (UAP), as amended or supplemented.

If the City has a population of less than 2,501 (based on the U.S. Bureau of Census-2000 Census), the Secretary agrees to be responsible for the expense to remove or adjust City owned utility facilities located on public rights of way as necessary to construct the Project in accordance with the final design plans. The payment of such expense by the Secretary shall be by a separate utility adjustment agreement between the Secretary and the City. If the City has a population of more than 2,500 (based on the U.S. Bureau of Census-2000 Census), the utility owners shall be responsible for the expense to remove or adjust all utility facilities on public rights of way as necessary to construct the Project in accordance with the final design plans. The expense of removal or adjustment of utility facilities located on private easements shall be reimbursed to the utility owners by the Secretary. The payment of such expense by the Secretary shall be by separate utility adjustment agreement between the Secretary and the utility owners.

3. The final design plans for the Project are by reference made a part of this Agreement.

4. They have in the past entered into an agreement covering routine maintenance of the city connecting link, and it is the intention of the Secretary and the City the agreement for routine maintenance shall remain in full force and effect and the mileage set out thereon shall not be affected by this Agreement.

5. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, shall conform to the manual and specifications adopted under K.S.A. 8-2003 and any amendments thereto are incorporated by reference.

6. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

7. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary, the County and the City and their successors in office.

9. No third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

The signature page immediately follows this paragraph.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

CITY CLERK

MAYOR

(SEAL)

ATTEST:

BOARD OF COUNTY COMMISSIONERS

COUNTY CLERK (Date)

CHAIRMAN

MEMBER

(SEAL)

MEMBER

Kansas Department of Transportation
Debra L. Miller, Secretary of Transportation

By:
Jerome T. Younger, P.E.
Deputy Secretary and
State Transportation Engineer

APPROVED AS TO FORM:

GARY E. REBENSTORF
DIRECTOR OF LAW

State of Kansas
Department of Administration
DA-146a (Rev. 10-11)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation**: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause**: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information**: **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying**: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

KANSAS DEPARTMENT OF TRANSPORATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.

2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.

5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.

6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,

   (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or

   (b) cancellation, termination or suspension of the contract, in whole or in part.

7) Disadvantaged Business Obligation

   (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.

   (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.

   (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

8) Executive Order 12898

   (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.

9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Kellogg/Kansas Turnpike/Webb Interchanges (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the City/State agreement.

Background: The Capital Improvement Program adopted by the City Council includes funding for East Kellogg improvements. On March 2, 2010, the City Council approved the design concept for Kellogg interchanges at the Kansas Turnpike and Webb. The Kansas Department of Transportation (KDOT) has agreed to participate in the project funding as part of the T-WORKS Program. T-WORKS is a State-wide 10 year transportation program administered by KDOT. An agreement has been prepared that establishes the basis for the joint funding.

Analysis: The project will consist of a six lane Kellogg freeway, with one-way frontage roads and interchanges at the Turnpike and Webb.

Financial Considerations: The agreement provides that Wichita will contribute $7,200,000 for the cost of construction. KDOT will fund all construction costs that exceed $7,200,000. Currently, the State contribution is estimated at $64,800,000. The funding source for the City share is the Local Sales Tax.

Goal Impact: This project addresses the Efficient Infrastructure goal by continuing the effort to upgrade Kellogg to a freeway through Wichita.

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.

Attachment: Agreement.

PROJECT NO. 54-87 KA-2382-01
ACNHS-A238(201)
RECONSTRUCTION
CITY OF WICHITA, KANSAS

AGREEMENT

PARTIES: **DEBRA L. MILLER, Secretary of Transportation**, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary,"

The City of Wichita, Kansas, hereinafter referred to as the "City,"

Collectively referred to as the "Parties."

PURPOSE: The Secretary has authorized a project, hereinafter referred to as the "Project." The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets in the City utilizing federal funds. The City desires to construct the Project on Kellogg Ave in the City.

PROJECT: The Secretary and the City desire to enter into this Agreement for the construction of the Project within the City, and the City assumes sponsorship of the Project which is described as follows:

Reconstruction of Kellogg Avenue/US-54 in the City to a 6-lane freeway section with frontage roads from Cypress East to Wiedemann with interchanges at Webb Road and the Kansas Turnpike Authority.

EFFECTIVE DATE: The Parties in consideration of the premises and to secure the approval and construction of the Project shall mutually agree to perform in accordance with this Agreement as of the date signed by the Secretary or designee.

ARTICLE I

THE SECRETARY AGREES:

1. To provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of the Kansas Department of Transportation and as required by Federal Highway Administration directives such that the City may obtain participation of federal funds in the cost of the Project.

2. To reimburse the City for one hundred percent (100%) of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering for the Project that exceeds the City's $7,200,000.00 contribution to the Project. The Secretary agrees to make partial payments to the City for amounts not less than $1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer employed by the City that the Project is being constructed within substantial compliance of the plans and specifications. The

Secretary shall not be responsible for the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

ARTICLE II

THE CITY AGREES:

1. To make or contract to have made design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, to let the contract, to construct the Project in accordance with the design plans, specifications, supervise the construction and administer the payments due the contractor, including the portion of cost borne by the Secretary. The City agrees to furnish the Secretary one (1) set of mylar plans, at the City's expense, for his or her records. The City further agrees the specifications will require the contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.

2. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

3. To design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Project Development Manual for Non-National Highway System Local Government Road and Street Projects, Volume I, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Traffic Engineering's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the Federal Highway Administration pertaining thereto.

4. Upon completion thereof, the design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project shall be submitted to the Secretary by a licensed professional engineer attesting to the conformity of the design plans with the items in paragraph 3 above. Contracts between the City and any consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement shall contain language requiring conformity with paragraph 3 above. In addition, any contract between the City and any consultant retained by them to do the design for the Project covered by this Agreement shall also contain the following:

a. Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the consultant's control.

b. Language requiring the consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.

c. Language making the Secretary of Transportation of the State of Kansas a

third party beneficiary in the agreement between the city/county and the consultant. Such language shall read:

Because of the Secretary of Transportation of the State of Kansas' (Secretary's) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this provision precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement.

5. The City and any consultant retained by the City shall have the sole responsibility for the adequacy and accuracy of design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Any review of these items that may be performed by the Secretary or his or her representatives is not intended to and shall not be construed to be an undertaking of the City's and its consultant's duty to provide adequate and accurate design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Such reviews are not done for the benefit of the consultant, the construction contractor, the City, or other political subdivision, nor the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the consultant or the City.

6. A duly appointed representative of the City is authorized to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project undertaken under this Agreement. The design plans must be signed and sealed by the licensed professional engineer responsible for preparation of the design plans. Geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies. Rights of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the rights of way descriptions.

7. It will, in its own name as provided by law, acquire by purchase, dedication or condemnation all of the rights of way, easements and access rights shown on the final design plans in accordance with the schedule established by the Kansas Department of Transportation. The City agrees the necessary rights of way, easements, and access rights shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary such rights of way, easements and access rights have been acquired. The City further agrees they will have recorded in the Office of the Register of Deeds all rights of way deeds, dedications, permanent easements and temporary easements.

8. To contact the Secretary if there will be any displaced persons on the Project prior to making the offer for the property. The Parties mutually agree the City will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive and Kansas Administrative Regulations 36-16-1 *et seq.*

9. To provide all legal descriptions required for right of way acquisition work. The City further agrees to acquire rights of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of the Kansas Department of Transportation and as required by Federal Highway Administration directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents including recommendations and coordination for appeal, bills, contracts, journal entries, case files or documentation requested by the Office of Chief Counsel will be sent to the Office of Chief Counsel within the time limits set by the Secretary.

10. To provide Secretary a full and complete set of right of way plans and a copy of all deeds executed for the Project.

10. If federal funds are used in the acquisition of the rights of way, any disposal of or change in the use of right of way or in the access after Project construction will require prior written approval by the Secretary.

11. It will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing structures, pole lines, pipe lines, meters, manholes and other utilities, publicly or privately owned, which may be necessary to construct the Project in accordance with the final design plans. New or existing utilities that are installed, moved or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.

Except as provided by state and federal laws, the expense of the removal or adjustment of the utilities located on public right of way shall be borne by the owners. The expense of the removal or adjustment of privately owned utilities located on private rights of way or easement shall be borne by the City except as provided by state and federal laws.

12. It will expeditiously take such steps as are necessary to facilitate the early adjustment of utilities, will initiate the removal or adjustment of the utilities, and will proceed with reasonable diligence to prosecute this work to completion. The City further agrees to move or adjust or cause to be moved or adjusted all necessary utilities sixty (60) days prior to the scheduled construction letting except those necessary to be adjusted during construction and those which would disturb the existing street surface. The City further agrees to certify to the Secretary on forms supplied by the Secretary all utilities required to be moved prior to construction have either been moved or a date provided by the City as to when, prior to construction, they will be moved. The City will initiate and proceed to complete adjusting the remaining utilities that are not required to be moved during construction in order the contractor shall not be delayed in construction of the Project. The City will indemnify, hold harmless, and save the Secretary and the construction contractor for damages

incurred by the Secretary and construction contractor because identified utilities have not been moved or adjusted timely or accurately.

13. To certify to the Secretary all privately owned utilities occupying public rights of way required for the construction of the Project are permitted thereon by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations that may be required as a result of street or highway improvements.

14. It shall determine the manner in which traffic is to be handled during construction in accordance with the latest version, adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD).

15. To let the contract for the Project and shall award the contract to the lowest responsible bidder upon concurrence in the award by the Secretary. The City further agrees to administer the construction of the Project in accordance with the final design plans, in the manner required by the Federal Highway Administration and the current version of the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas, and administer the payments due the contractor, including the portion of the cost borne by the Secretary and the City. Decisions about what construction costs are federal participating will be made in accordance with the requirements of the Federal Highway Administration.

16. To require the contractor to pay prevailing wages. The City will incorporate into the construction contract the current general wage decision for the county in which the Project is being constructed. The City will obtain the mandatory Required Contract Provisions from KDOT and incorporate it into the construction contract. The City may obtain the current wage decision from the KDOT Bureau of Construction and Maintenance, Topeka, Kansas.

17. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the City will defend, indemnify, hold harmless, and save the Secretary 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 arising out of or in connection with the provisions or performance of this Agreement by the City, the City's employees, agents, or subcontractors. The City shall not be required to defend, indemnify, hold harmless, and save the Secretary for negligent acts or omissions of the Secretary or his or her authorized representatives or employees.

18. To require the contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

19. To provide (or have provided by a consultant who is certified in construction inspection areas applicable to this Project) the construction inspection in accordance with the rules and guidelines developed for the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual/KDOT Project Procedures Manual-City of Wichita, Kansas. Any subsequent changes to the Project Procedures Manuals by the City during the construction engineering inspection of the Project will require prior approval of the changes by the Secretary.

The project plans, specifications, special provisions, Construction Contract Proposal (as available), the Project Procedures Manuals, the agreement estimate for construction engineering services (if applicable) and other Special Attachments (Index provides List of Special Attachments) are all essential documents of this Agreement and are hereby incorporated by reference into this Agreement and are a part thereof.

If the City does not have sufficient qualified engineering employees to accomplish the construction engineering inspection services on this Project, it may engage the professional services of a qualified consulting engineering firm to do the necessary construction engineering inspection services. However, any consultant retained must represent it is in good standing and full compliance with the statutes of the State of Kansas for registration of professional engineers, the Federal Highway Administration and all Federal agencies, provide personnel who are fully qualified to perform the services in a competent and professional manner, and provide the Secretary with a list of assigned inspectors and their certifications. The City may provide personnel who are fully qualified to perform the services in a competent and professional manner, but must provide the Secretary with a list of assigned inspectors and their certifications.

The City will require at a minimum all personnel, whether City or consultant to comply with the high visibility apparel requirements of the *KDOT Safety Manual*, Chapter 4, Section 8 Fluorescent Vests. If the City executes an agreement for inspection, the agreement shall contain this requirement as a minimum. The City may set additional clothing requirements for adequate visibility of personnel.

20. To be responsible for $7,200,000.00 of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of preliminary engineering, rights of way, and utility adjustments for the Project.

21. To be responsible for one hundred percent (100%) of any Project costs incurred by the City for the Project prior to the funding for the Project being authorized, obligated, and approved by the Federal Highway Administration.

22. To adopt an ordinance requiring the removal of all encroachments either on or above the limits of the right of way shown on the final design plans for this Project, and it will initiate and proceed with diligence to remove or require the removal of the encroachments. It is further agreed all such encroachments be removed before the Project is advertised for letting (provided, however, if the Secretary is satisfied, with respect to any encroachment, the physical removal thereof has been fully provided for between the City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, the Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). The City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the rights of way of the Project and will require any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than twelve (12) feet back of the right of way line. All rights of way provided for the Project shall be used solely for public street purposes and no signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the right of way limits except as provided by state and federal laws.

23. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

24. To locate and be responsible for all costs necessary to remedy or clean up any hazardous waste site, including, but not limited to, leaking underground storage tanks discovered on rights of way, easements and access rights acquired by the City. The City shall be responsible to the Secretary for all damages, fines or penalties, expenses, claims and costs incurred by the Secretary from any hazardous waste site discovered on rights of way, easements and access rights acquired by the City prior to commencement of construction of the Project. The City shall take appropriate action to contain or remediate any identified hazardous waste site within the Project limits prior to letting of the Project. The City will investigate any and all hazardous waste sites discovered during construction of the Project on City owned land within the Project boundary and shall take appropriate action to contain or remediate such hazardous waste sites.

For any hazardous waste site, including, but not limited to, leaking underground storage tanks, the City shall hold harmless, defend and indemnify the Secretary, its agents and employees against and from all damages, expenses and costs incurred by any person, the State of Kansas, or the United States Government for determining and undertaking remedial action, any fines or penalties assessed under state or federal laws, contract claims, personal injury claims, and damage of or loss of natural resources.

It is specifically agreed between the Parties executing this Agreement any provision of this hazardous waste clause is not intended to make the public, or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party of this Agreement to maintain a suit for personal injuries, property damages, or hazardous waste claims. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed by law.

The City, by signing this Agreement with the Secretary has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any hazardous waste on any rights of way, easements, and access rights acquired by the City. The City reserves the right to bring any action against any third party for any hazardous waste site on any rights of way, easements, and access rights acquired by the City.

The term hazardous waste includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, are incorporated by reference and include but not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 1990 Supp. 65-3431 *et seq.*, Hazardous Waste.

The standards to establish cleanup of a hazardous waste site include, but is not limited to, federal programs administered by the E.P.A., State of Kansas environmental laws and regulations, and City and county standards where the hazardous waste site is located.

25. To control parking of vehicles along the Project throughout the length of the improvement covered by this Agreement. On-street parking will be permitted until such time as parking interferes with the orderly flow of traffic along the street.

26. The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may safely and expeditiously be served and shall adopt and enforce such rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the Federal Highway Administration.

27. To maintain the control of access rights and to prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final design plans, unless prior approval is obtained from the Secretary.

28. To control the construction or use of any entrances along the Project within the City including those shown on the final design plans.

29. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, shall conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to the approval of the Secretary.

30. It is the policy of the Secretary to make any final payments to the City for services related to the Highway program in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit Organizations" in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

The Secretary may pay any final amount due for the authorized work performed based upon the City's most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT's Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

31. If they have not already done so, the City shall obtain a D-U-N-S number (Dun & Bradstreet Number). A D-U-N-S number can be obtained at the following website: http://www.dnb.com/us/duns_update/.

32. The City agrees it shall maintain current registrations in the Central Contractor Registration (http://www.ccr.gov) at all times during which they have active federal awards.

33. Upon request by the Secretary, to provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of the KDOT and all costs incurred by the City not to be reimbursed by the KDOT for preliminary engineering, rights of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

34. When the Project is completed and final acceptance is issued, it will, at its own cost and expense, maintain the portion of the Project that is comprised of City streets, and will make ample provision

each year for said maintenance. Upon notification by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed. Additionally, The Secretary and City have in the past entered into an agreement covering routine maintenance of the city connecting link, and it is the intention of the Secretary and the City the agreement for routine maintenance shall be updated at the end of the Project to reflect any change in the maintenance responsibilities of the respective Parties due to this Project.

35. If it cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary's statement of the cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE III

THE PARTIES MUTUALLY AGREE:

1. The final design plans for the Project are by reference made a part of this Agreement.

2. If any items are found to be non-participating by the Secretary, acting on his or her own behalf and on behalf of the Federal Highway Administration, the total cost of these items will be paid for by the City.

3. Representatives of the Secretary may make periodic inspection of the Project and the records of the City as may be deemed necessary or desirable. The City will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of federal participation. The Secretary does not undertake (for the benefit of the City, the contractor, the consultant, or any third party) the duty to perform the day-to-day detailed inspection of the Project, or to catch the contractor's errors, omissions, or deviations from the final design plans and specifications.

4. It is the policy of the Secretary to make final payments to the City in a timely manner. The Single Audit Standards set forth in federal O.M.B. Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" that require the City to comply in accordance with those standards.

The Secretary may pay the final amount due for authorized work performed based upon the City's most recent "Single Audit Report" available and a desk review of the claim by the Contract Audit Section of the Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Secretary and the City agree that as the "Single Audit Report" becomes available for the reimbursement period, the Secretary will review the "Single Audit Report" for items which are declared as not eligible for reimbursement. The City agrees if payment has been made to the City for items subsequently found to be not eligible for reimbursement by audit, the City will refund to the Secretary the total amount of monies paid for same.

5. The City agrees to comply with all appropriate state and federal laws and regulations for this Project.

6. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

7. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary, the City, and their successors in office.

8. No third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms of provisions of this Agreement.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:

THE CITY OF WICHITA, KANSAS

_____
CITY CLERK (Date)

_____
MAYOR

(SEAL)

Kansas Department of Transportation
Debra L. Miller, Secretary of Transportation

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

APPROVED AS TO FORM:

GARY E. REBENSTORF
DIRECTOR OF LAW

State of Kansas
Department of Administration
DA-146a (Rev. 10-11)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 10-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation**: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause**: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information**: **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

KANSAS DEPARTMENT OF TRANSPORATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.

2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.

5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.

6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,

   (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or

   (b) cancellation, termination or suspension of the contract, in whole or in part.

7) Disadvantaged Business Obligation

   (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.

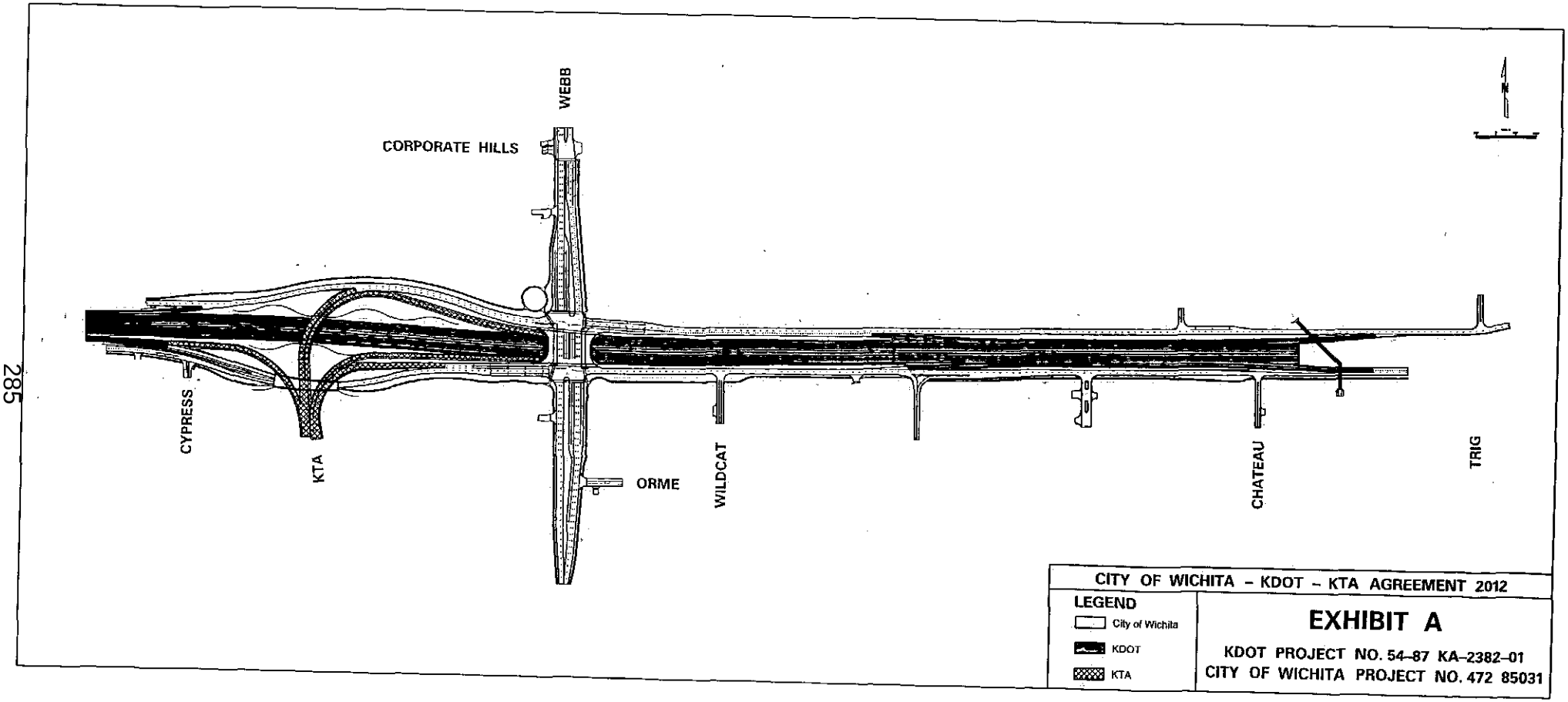
   (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.

   (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

8) Executive Order 12898

   (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.

9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.


CORPORATE HILLS
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TRIG
CITY OF WICHITA - KDOT - KTA AGREEMENT 2012
LEGEND
City of Wichita
KDOT
KTA
EXHIBIT A
KDOT PROJECT NO. 54-87 KA-2382-01
CITY OF WICHITA PROJECT NO. 472 85031

Agenda Item No. II-5e

City of Wichita
City Council Meeting
January 10, 2012

To: Mayor and City Council

Subject: Childhood Lead Poisoning Prevention Program Agreement (All Districts)

Initiated By: Department of Public Works & Utilities

Agenda: Consent

Recommendation: Approve the contractual agreement

Background: The Kansas Department of Health and Environment (KDHE) established the Kansas Childhood Lead Poisoning Prevention Program to respond to concerns about lead and its effect on the health of Kansans, most notably the children. The KDHE Healthy Homes and Lead Hazard Prevention Program is tasked to assist Kansans in protecting themselves from hazardous environmental health exposures. The primary objective continues to be lead poisoning prevention. The mission of the KDHE Healthy Homes and Lead Hazard Prevention Program is to promote healthy and safe environments for families in Kansas through awareness, education and reduction of environmental hazards in their homes.

KDHE has contacted staff to enter into a contractual agreement to assist KDHE to provide environmental risk assessment services in Sedgwick County. Environmental Health would serve as KDHE's designated agency to provide Elevated Blood Level investigations in homes to identify lead hazards in the home where children with elevated blood levels reside.

Analysis: KDHE will notify the City Environmental Health investigator to conduct in-home investigations to identify lead and other home hazards in the child's environment and educate parents and homeowners about risk reduction to make the home safer. City staff obtained accredited Elevated Blood Level Inspector training last year. City staff will schedule and conduct inspections per KDHE protocols to identify lead hazards in homes where KDHE has identified children with elevated blood lead levels. The City will provide a summary report to KDHE within 20 days of the inspection.

Financial Consideration: KDHE will reimburse the City $350 per address per year for Elevated Blood Level services for each child identified with an elevated blood lead levels. It is estimated that approximately 15 homes are investigated for Elevated Blood Level per year. Staff estimates that KDHE will reimburse the City approximately $5,250 per year for the investigations. Staff believes that this work can be performed with existing staff and resources. The initial certification training was conducted last year with this program. A biennial certification training cost of $200 is expected.

Goal Impact: This agreement addresses the Safe and Secure Community goal by improving environmental health and community safety.

Legal Consideration: The contract has been approved as to form by the Law Department.

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

Attachment: SFY 2012 Grant Contract.

AGREEMENT
Between
City of Wichita
And
Kansas Department of Health and Environment

The Parties to this Agreement are as follows.

- The City of Wichita, Public Works Department (Local Agency), a duly established agency of the Sedgwick County, Kansas, and located at:
  1900 E 9th street
  Wichita, KS 67214

- Kansas Department of Health and Environment (KDHE), a duly established department of the State of Kansas, located at:
  1000 SW Jackson
  Topeka, Kansas 66612

Recitals

The Parties desire to reduce environmental lead burden of children through the provision of home-based environmental risk assessment services.

KDHE has determined that the Local Agency is capable of providing proper investigative services in relation to elevated blood lead (EBL) levels; and

KDHE desires to engage the Local Agency for such purposes.

Therefore, the Parties agree to the following terms and conditions.

Terms and Conditions

1. The Term of this Agreement shall be from October 1, 2011, through August 30, 2012. The Agreement shall become effective as of the date of execution by the Secretary of KDHE.

2. The provisions found in Attachment A, entitled *Contractual Provisions Attachment (Form DA-146a)* are incorporated into this Agreement by reference.

3. KDHE agrees to:

   A. Designate and accept the Local Agency as the agent of the KDHE to provide EBL Investigations as necessary for children identified with an elevated blood lead level per case management protocols. Attachment B.

B. Provide payment of **$350.00** per address per year for EBL investigations for each child identified with an elevated blood level per case management protocols, including a follow-up visit to ensure lead hazard reduction recommendations were followed.

C. Disperse payment to the Local Agency upon receipt of required completed reports.

D. Notify the Local Agency of a child with an elevated blood lead level and provide information pertinent to an EBL investigation.

E. Notify the Local Agency of a residence that was subject of an EBL investigation in their area that was issued an EBL Hazard Control Work Order (K.A.R.28-72-17) that requires clearance sample testing as described in and in accordance with K.A.R. 28-72-18e.

F. Provide payment of **$100.00** per address per year for Lead Hazard Control Work Order Clearance Sampling and congruent report.

4. Local Agency agrees to:

A. Maintain on its staff a designated individual who has completed an accredited Lead-Based Paint Inspector and Lead Hazard Risk Assessor training, pursuant to K.A.R. 28-72-6.

i. Pay for initial certification and any recertification training for EBL inspector by an accredited KDHE training provider.

ii. Ensure that designated individual:

a. Successfully complete third party exam given by KDHE staff.

b. Submit an application in order to receive certification as an EBL Inspector.

c. Complete EBL Inspector in person training provided by KDHE staff yearly.

d. Maintains current training and certification for a minimum of two years.

B. Contact parents or guardians of a lead poisoned child to schedule date and time for an investigation.

C. Provide EBL inspections per protocols to identify lead hazards of children in **Sedgwick County** with confirmatory blood lead levels ≥10µg/dL following work practice protocols established under K.A.R. 28-72-17. (Attachment B)

D. Provide the KDHE with the following reports within twenty 20 business days following receipt of environment sample analysis results:

i. Laboratory confirmation of venous blood level ≥10µg/dL

ii. Documentation of any and all Medicaid Eligibility including Medicaid number, last date of eligibility and current health care provider name, address and phone number. Information should include those families participating in Unicare, Children's Mercy Family Health Partners.

iii. Completed Residential Health Questionnaire with documentation of who provided information collected and signatures of all persons present for home visit including any

affiliated partners.

iv. EBL Investigation Report per KDHE protocols. (Attachment B)

v. Copy of laboratory results of environmental samples collected

vi. Copy of EBL follow up investigation summary that explains how lead hazard reduction recommendations were followed; including copy of laboratory results of clearance dust wipe samples taken.

vii. Monthly Case Management Update Reports on all open confirmed cases identified in their area.

5. KDHE and the Local Agency will meet as needed to discuss and evaluate the effectiveness of existing administrative procedures and to discuss problems that have been identified by either party. Where appropriate, these meetings may be conducted by telephone.

6. Any notice permitted or required by this Contract shall be in writing and delivered personally or mailed, postage prepaid, to the following address, or such other address as may be furnished by either party in writing.

Kansas Department of Health and Environment
Curtis Building, Suite 330
1000 SW Jackson Street
Topeka, Kansas 66612-1274
785-256-3229
Fax (785) 296-5594

City of Wichita
1900 E 9th Street
Wichita, KS 67214
316-268-8351

7. This agreement may be amended at any time by mutual written agreement of both parties or when required by:

A. CDC directed changes to the KDHE; or

B. KDHE changes to operational requirements mandated by federal regulations and CDC directives; or

C. CDC policy changes in instructions for program evaluation or surveillance.

8. This Agreement may be terminated at any time upon 30 days' written notice by either party.

9. Funding for this contract (100%) is provided by the Centers for Disease Control and Prevention Notice of Cooperative Agreement #5H64EH000158-03. The Agreement is contingent upon the availability of State or Federal funds. In the event that such funds are exhausted or no longer available, this contract may be terminated without penalty by the KDHE upon thirty (30) days written notice.

10. This Agreement constitutes the total agreement between the parties, and except as otherwise specifically

provided, it is mutually understood and agreed that no alternative or variation to the terms of this agreement shall be valid unless amendments hereto are made and agreed to in writing by both parties.

The Parties have caused this Agreement to be duly signed and executed by their authorized representatives.

Local Agency

By:

_____
Signature

_____
Printed Name

_____
Title, Agency Name

_____
Date

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

By:

_____
Robert Moser, MD,
Secretary

Contract Administrators:

Kansas Department of Health and Environment – Linda Vandevord, 785-296-6423, 1000 SW Jackson, Ste 310, Topeka, KS 66612-1366

City of Wichita, Public Works Department, Division of Environmental Health – Joseph Pajor, 316-268-4664, 1900 East 9th Street, Wichita, KS 67214

In WITNESS WHEREOF, the parties hereto have affixed their signatures.

By signing this agreement, the person below warrants that he or she has the authority to sign this document and to bind WDEH and the KDHE to its terms.

_____	_____
Carl Brewer, Mayor The City of Wichita, KS By order of the City Council	Dr. Robert Moser Secretary Kansas Department of Health and Environment
Date: _____	Date: _____

Attest:

_____

Karen Sublett Date
City Clerk

Approved as to form:

_____

Gary E. Rebenstorf Date
Director of Law

ATTACHMENT A

State of Kansas
Department of Administration
DA-146a (Rev. 04-11)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 04-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20____.

1. **Terms Herein Controlling Provisions**: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation**: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause**: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

   Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

   The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes**: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance**: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information**: **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment**: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Pressure and Chlorine Booster Station - Rural Water District No. 1– Supplemental Agreement No. 1 for Professional Services (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement with Professional Engineering Consultants, P.A. (PEC) for a Geotechnical Investigation supporting Design Services for a Pressure and Chlorine Booster Station to serve Rural Water District No. 1 of Sedgwick County.

Background: Water Utilities has provided wholesale potable water to Rural Water District No. 1 (RWD1) since 1969. On October 20, 2009, the City Council approved a new Wholesale Water Sales Agreement with RWD1 and resolution to initiate the CIP project. On December 15, 2009, the City Council authorized staff to proceed with a project to construct a Pressure and Chlorine Booster Station to serve RWD 1 of Sedgwick County.

Analysis: The basic design for the booster station to serve RWD1 has been completed and the site has been selected. A geotechnical investigation of the soils must be performed to complete the plans for the foundation of the new building. This supplemental will cover the cost of drilling exploratory borings and all of the analysis of the soils needed for design. This service was not included in the original design service agreement due to contract language allowing these services to be provided by City staff.

Financial Considerations: The estimated cost for the original agreement for engineering services for the design of the Pressure and Chlorine Booster Station was $34,910. Supplemental Agreement No. 1 is for $2,800 bringing the total project cost to $37,710. Funding for these services is available in the Capital Improvement Program.

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

Recommendations/Actions: It is recommended that the City Council approve Supplemental Agreement No. 1 and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 1.

SUPPLEMENTAL AGREEMENT NO. 1

TO THE

AGREEMENT FOR ENGINEERING SERVICES FOR PRESSURE AND CHLORINE BOOSTER STATION TO SERVE SEDGWICK COUNTY RURALWATER DISTRICT NUMBER ONE
PEC PROJECT NO. 34-11123-0042

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS
PARTY OF THE FIRST PART, HEREINAFTER CALLED "OWNER"

AND

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
PARTY OF THE SECOND PART, HEREINAFTER CALLED "ENGINEER"

WINTESSETH:

WHEREAS, there now exists an Agreement dated February 15, 2011 between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the Pressure and Chlorine Booster Station,

WHEREAS, the Standard Conditions of the above referenced agreement provides that additional services not covered by the scope of the agreement 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 Work described in the Agreement shall be modified to add the following:

Complete a Geotechnical Investigation of the Project to determine the soil conditions for the installation of any improvements proposed for the project. Test holes will be drilled at locations designated by the Project Engineer. The depth for the borings will be approximately 20 feet below existing grade. The work will consist of the following:

1. Drill exploratory borings as required. Maximum number of borings not to exceed 2.
2. Obtain samples of the soils using split spoon samplers or Shelby tubes.
3. Measure ground water 24 hours after drilling.
4. Seal borings with auger cuttings or bentonite chips if ground water is encountered.
5. Locate borings with tape measurements to establish site features.
6. Provide level surveys for elevations using established benchmarks.
7. Perform laboratory tests using the ASTM D-2487 for soil classification work.
8. Determine Moisture content, unconfined compressive strength, and corrosivity.
9. Provide a Report by the Laboratory engineer documenting the items noted above.

B. PAYMENT PROVISIONS

Payment to the ENGINEER for the performance of the professional services required by this supplemental agreement shall be in accordance with Article IV of the original agreement and will be paid for as follows:
Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of a lump sum fee of $2,800.00

C. EXCLUSION

1. Exclusions from the Original Agreement remain in effect.

D. THE OWNER AGREES

1. To pay the ENGINEER in accordance with Article III of this supplemental agreement.

E. TIME OF SERVICES

Completion of services shall be within a mutually agreed to schedule.

F. 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 full force and effect.

IN WITNESS WHEREOF, the OWNER and the ENGINEER have executed this Supplemental Agreement as of this ____ day of _____, 2011.

By Action of the City Council

_____
Carl Brewer, Mayor

SEAL:

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary Rebenstorf, Director of Law

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

_____
Michael D. Kesley, P.E.
Principal

ATTEST:

_____
D.Lynn More, P.E.
Project Manager

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Encroachment Agreement with Southern Star Central Gas Pipeline, Inc for Traffic Signalization Improvements at 39th Street North and Webb (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the agreement.

Background: On September 22, 2009, the City Council approved a project to construct traffic signals at the intersection of 39th Street North and Webb Road. Some of the traffic signal structures and conduit will be located within a prior existing private easement granted to Southern Star Central Gas Pipeline, Inc. An agreement has been created in which Southern Star will allow the City of Wichita to install street improvements and traffic signal equipment across the pipeline easement as long as there is a minimum of 15' clearance from the 16" natural gas pipeline. The encroachment agreement requires the City of Wichita's general contractor to carry specified amounts and types of insurance. The City of Wichita agrees to indemnify Southern Star against claims or damages claimed as a result of construction, maintenance, or other operations of the City and its contractors and subcontractors within the encroachment area.

Analysis: The traffic signal general contractor will be required to have proof of insurance in the amounts, types and duration specified in the agreement. The City of Wichita agrees to indemnify Southern Star against claims or damages arising from construction, maintenance, or other operations of the City and its contractors and subcontractors within the encroachment area. The City's contract with the contractor provides for an indemnity agreement.

Financial Considerations: The encroachment agreement requires no financial outlay. The City of Wichita will be covered by its standard policy of self-insurance in the event that future damage results from construction, maintenance, or other operations of the City and its contractors and subcontractors within the encroachment area. The traffic signal general contractor will be required to have proof of insurance in the amounts, types and duration specified in the agreement.

Goal Impact: This agreement addresses the Efficient Infrastructure goal by improving an important transportation route.

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

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

Attachment: Encroachment agreement and Southern Star Central Gas Agreement.

Tract # 21334, 31334A
City of Wichita, **Line:**
TG
Sedgwick County, Kansas

ENCROACHMENT AGREEMENT

THIS AGREEMENT, entered into by and between **Southern Star Central Gas Pipeline, Inc.**, formerly Williams Gas Pipeline Central, Inc., Williams Natural Gas Company, Northwest Central Pipeline Corporation and Cities Service Gas Company, a Delaware corporation with its principal place of business being 4700 KY Highway 56, P.O. Box 20010, Owensboro, Kentucky 42304, hereinafter referred to as **"Company"** and the **City of Wichita, Kansas,** Sedgwick County, Kansas, a Kansas Municipal Corporation, hereinafter referred to as **"City"**, WITNESSETH:

WHEREAS, Company is the owner of a 16 inch natural gas pipeline and easements therefore covering the East Half (E/2) of Section 29, Township 26 South, Range 2 East, according to a certain pipeline right-of-way Easement dated June 22, 1948, recorded in Misc. Book 236 at Page 193, on July 14, 1948; and a Agreement and Partial Release of right-of-way dated September 13, 1983, record in Film 611 on Page 1, recorded on September 20, 1983; and a Letter of Agreement between the City of Wichita and Williams Natural Gas Company, dated July 25, 1994, titled Webb Rd. Widening Project 29th to 39th 87-N-0029-01' therefore cover the Southeast Quarter (SE/4) of Section 29, Township 26 South, Range 2 East, both easements in the Register of Deeds Office, Sedgwick County, Kansas; and,

WHEREAS, the City is the owner of the Street right-of-way 29th Street N and Webb Rd. located in the Southeast Quarter (SE/4) of Section 29, Township 26, South Range 2 East; Sedgwick County, Kansas and,

WHEREAS, the City proposes to develop, widen 29th, and install traffic signal structures, in such a manner as to conflict, interfere with and encroach on, Company's easement rights as referenced to drawings for Traffic Signalization 39th St. N. and Webb Rd, City of Wichita Project No. 472-84928, Job No 10312, sheet #16 of 31, dated April, 2011, prepared by Professional Engineering Consultants P.A.

WHEREAS, under the terms of this agreement Company is willing to permit street improvements, and traffic signals across pipeline right-of-way at 39th Street N. and Webb Rd under the following terms and condition

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties, Company and the City agree as follows:

1. Company will allow the installation of a traffic signal a minimum of fifteen (15) feet from 16" natural gas pipeline at the Northwest & Southwest corner, of intersection 29th Street No. and Webb Rd. In the event that company excavates the pipeline Easement, City agrees to temporarily remove or support traffic signal structure, and City will be responsible for restoration of street improvements.

2. Owner agrees conduits will be installed with the standards shown on Standard Drawing STD-ENC-X-EC and STD-ENC-X-BU, which must be reviewed and approved by Company prior to their construction, and are attached hereto and made a part thereof.

3. City Agrees to inform Company of any construction activities, including the installation or repair of other utility lines that may cross the Company easement, by contacting the state One-Call System.

4. In the event during the exercise of its easement rights to construct, maintain and operate the pipeline and appurtenances, Company or its contractors destroy or damage the

encroachment herein permitted, all such damages to said permitted items shall be the sole responsibility of the owner, unless Company is negligent in such action.

5. To the extent permitted by law, the City agrees to indemnify, save and hold company, its parent and affiliates, and the employees, officers, directors and agents thereof, harmless from and against any loss, cost or expense incurred by Company, including without limitation losses resulting from claims for damages to property or injuries to or deaths of persons, judgments, court costs and attorneys' fees which arise out of, or are claimed to have arisen out of the construction, maintenance or other operations of City, their contractors and subcontractors, on the Company easement upon city property, unless such loss, cost or expense in proximately caused by the sole negligence of Company, its contractors and/or subcontractors.

6. Prior to commencement of construction of the above reference work, the General Contractor selected by City shall provide Company certificates of insurance expressly naming Southern Star Central Gas Pipeline, Inc., as an additional insured and evidencing coverage in the amount of one million dollars ($1,000,000.00) general liability, one million dollars ($1,000,000.00) workers compensation and employers liability insurance for the construction area described herein, and containing thirty (30) days prior written notice of cancellation.

IN WITNESS WHERE OF, we hereunto set our hands and seals on the day and year below our signatures indicated.

COMPANY:
SOUTHERN STAR CENTRAL GAS PIPELINE, INC.

_____
Robert S. Bahnick, Sr. Vice-President
Vice President & Chief Operations Officer

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf
Director of Law

Date: _____

THE CITY OF WICHITA KANSAS
BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, Mayor City of Wichita, Kansas

Date: _____

CORPORATE ACKNOWLEGEMENT

STATE OF KENTUCKY

COUNTY OF DAVIESS

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this ____ day of _____, 2011, personally appeared Robert S. Bahnick, who being by me duly sworn, did say that he is the Vice President & Operations Officer of Southern Start Central Gas Pipeline, Inc., a corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said Robert S. Bahnick acknowledged said instrument to be the free act and deed of said corporation.

In testimony whereof, I hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

_____ _
Notary Public

My Commission Expires _____, 20_____.

CORPORATE ACKNOWLEDGEMENT

STATE OF KANSAS

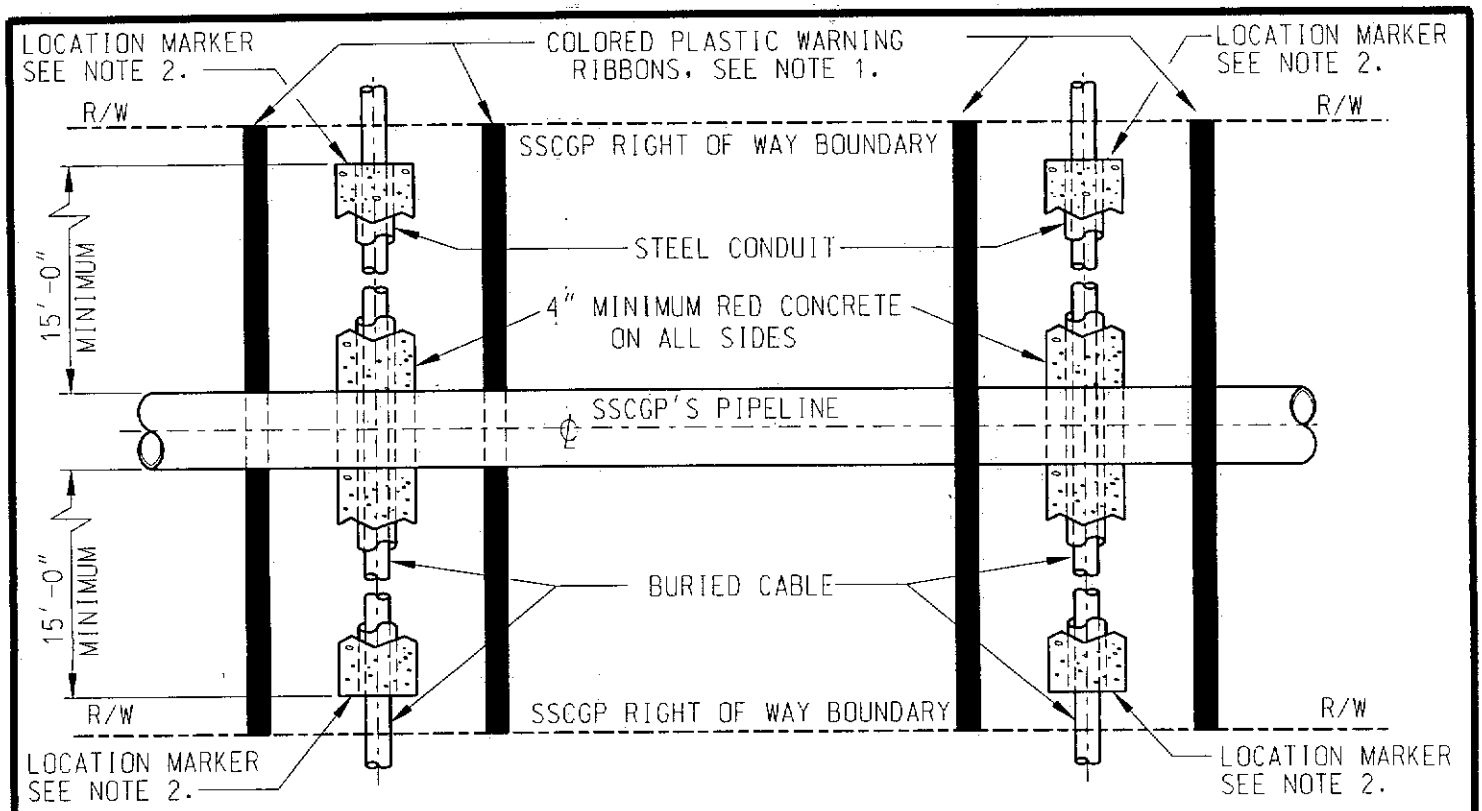
COUNTY OF SEDGWICK

Before me, the undersigned, a Notary Public duly commissioned in and for the county and state aforesaid, on this ____ day of _____, 2011, personally appeared Carl Bewer, who being duly sworn, did say that he is the the Mayor of Wichita, Kansas, a Kansas Municipal Corporation, and that said instrument was signed on behalf of said city by authority of its City Council, said Carl Brewer, acknowledged said instrument to be the free act and deed of said city.

In testimony whereof, I hereunto set my hand and affixed my official seal at my office in said county and state the day and year last above written.

_____ _
Notary Public

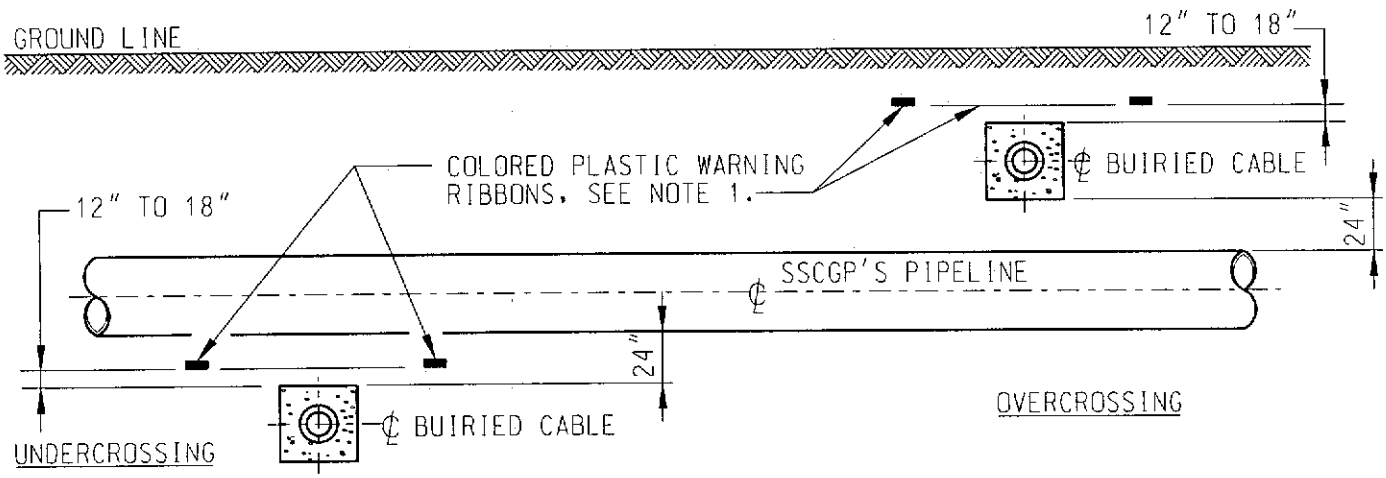
My Commission Expires _____, 20_____.



UNDERCROSSING

PLAN VIEW

OVERCROSSING



ELEVATION - CROSSING INSTALLATION

NOTES:

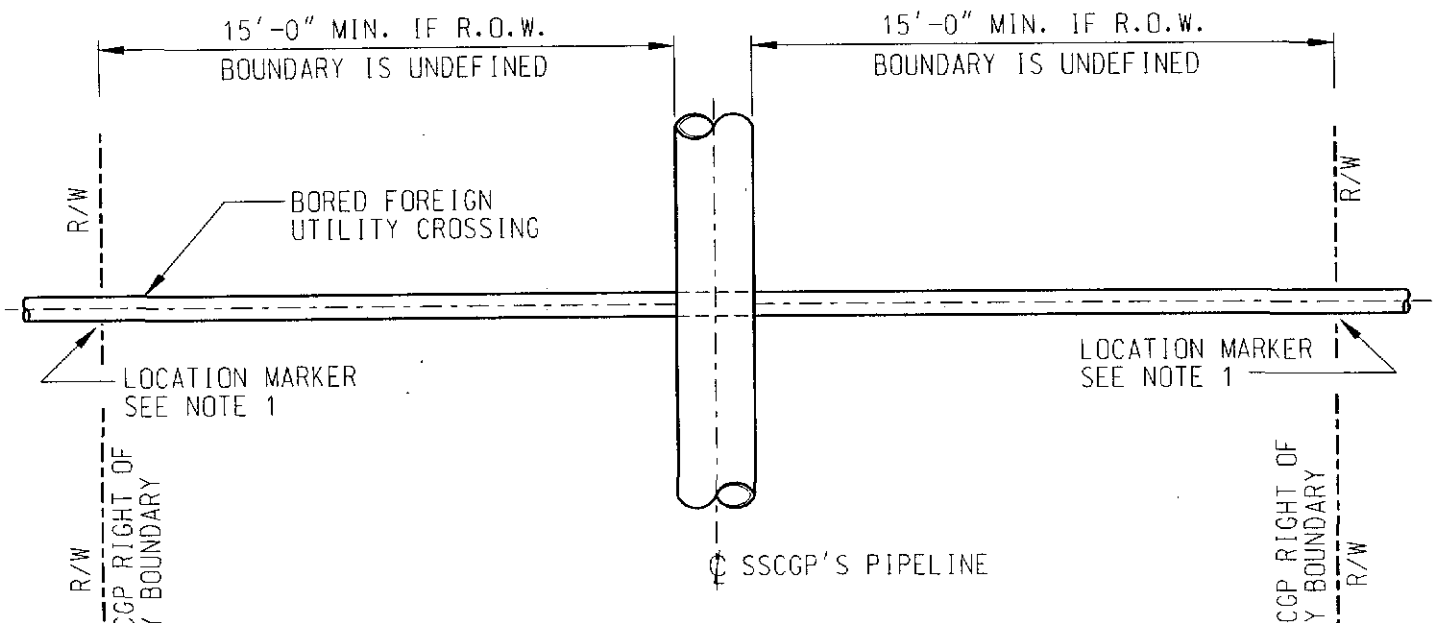
1. DURING BACKFILL OPERATIONS, A SAFETY RED PLASTIC RIBBON SHALL BE LAID12" TO 18" ABOVE THE UNDERGROUND CABLE IN BOTH SIDES OF THE DITCH THE ENTIRE WIDTH OF SSCGP'S RIGHT OF WAY.

2. ABOVE GROUND ELECTRICAL OR FIBER OPTIC LOCATION MARKER WILL BE INSTALLED AT EACH END OF RED CONCRETE.

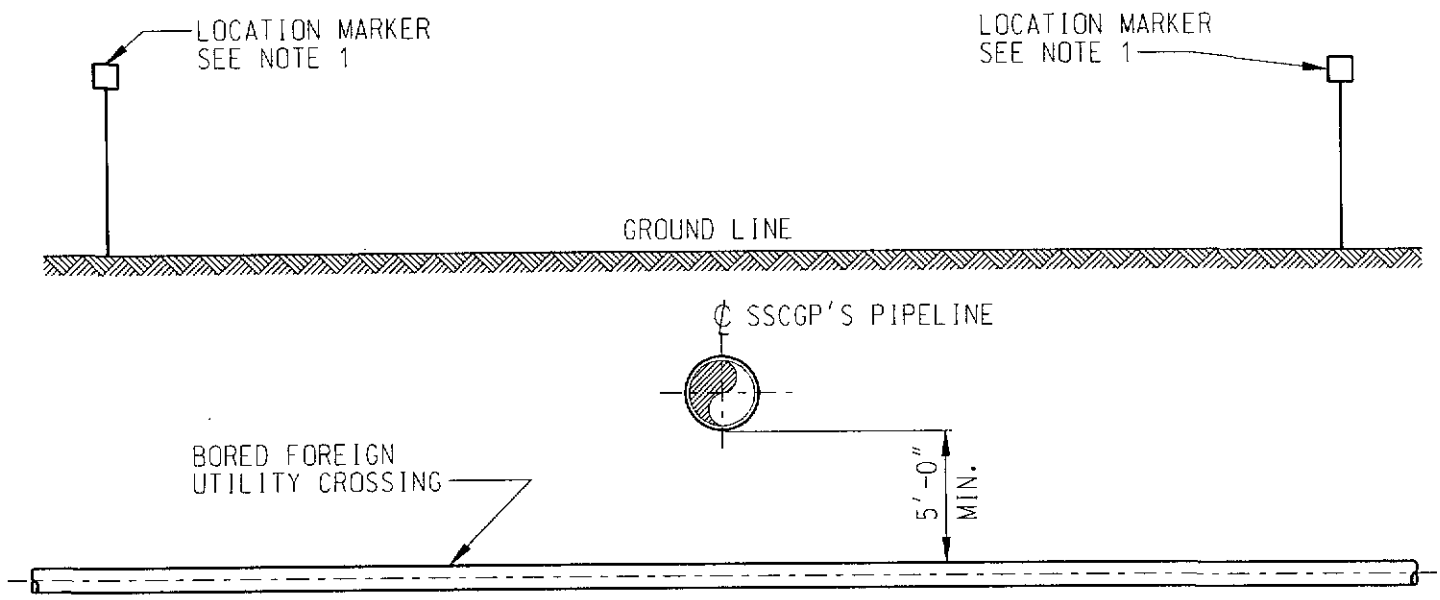
SOUTHERN STAR
CENTRAL GAS PIPELINE

STANDARD ENCROACHMENT DETAILS
FOR INSTALLATION OF ELECTRICAL OR FIBER OPTIC CABLE
CROSSING SSCGP'S PIPELINE

		REV.	DATE	BY	DESCRIPTION	APP	SCALE: 1" = 1'-0"
DRAWN BY: GLS	DATE: 05-04-2004	0	05-14-2004	GLS	COMBINED 005-090-0068 AND 0069	RDH	P.I.N.
CHECKED BY:	DATE:	1	11-05-2007	JAK	REPLACES STD. DWG. 005-090-A-0143	RDH	DWG. NO.
APPROVED BY: RDH	DATE: 05-28-2004						STD-ENC-X-EC



PLAN VIEW



ELEVATION

NOTES:

1. ABOVE GROUND UTILITY LOCATION MARKER WILL BE INSTALLED ABOVE CROSSING AT SSCGP ROW BOUNDARY.

SOUTHERN STAR
CENTRAL GAS PIPELINE

STANDARD ENCROACHMENT DETAILS
FOR INSTALLATION OF BORED UTILITY
CROSSING BELOW EXISTING GAS PIPELINE

		REV.	DATE	BY	DESCRIPTION	APP	SCALE: 1" = 1'-0"
DRAWN BY: GLS	DATE: 05-04-2004	0	05-04-2004	GLS	REVISED PER SSCGP STANDARDS	RDH	P.I.N.
CHECKED BY:	DATE:	1	11-05-2007	JAK	REPLACED STD. DWG. 005-090-A-0142	RDH	DWG. NO.
APPROVED BY: RDH	DATE: 05-28-2004						STD-ENC-X-BU

DETECTOR SUMMARY							
CAMERA NO.	DETECTION ZONE	MODE	SIZE (LxW)	PHASE CALLED	PHASE EXTENDED	DELAY/ STRETCH TIMER	INTER. SETTING (SEC)
1	D4-1	Presence	60x6	4	4	-	-
1	D4-2	Pulse	6x6	4	4	5	2
1	D4-3	Pulse	6x6	4	4	5	2
1	D4-4	Pulse	6x6	4	4	5	2
1	D4-5	Presence	60x6	4	4	-	-
1	D4-6	Pulse	6x6	4	4	5	2
1	D4-7	Pulse	6x6	4	4	5	2
1	D4-8	Pulse	6x6	4	4	5	2
2	D2-1	Presence	60x6	2	2	-	-
2	D2-2	Pulse	6x6	2	2	5	2
2	D2-3	Pulse	6x6	2	2	5	2
2	D2-4	Pulse	6x6	2	2	5	2
2	D2-5	Presence	60x6	2	2	0	10
3	D8-1	Presence	60x6	8	8	-	-
3	D8-2	Pulse	6x6	8	8	5	2
3	D8-3	Pulse	6x6	8	8	5	2
3	D8-4	Pulse	6x6	8	8	5	2
3	D8-5	Presence	60x6	8	8	-	-
3	D8-6	Pulse	6x6	8	8	5	2
3	D8-7	Pulse	6x6	8	8	5	2
3	D8-8	Pulse	6x6	8	8	5	2
4	D6-1	Presence	60x6	6	6	-	-
4	D6-2	Presence	60x6	6	6	0	20

Detector Summary reflects initial operation.

FUNCTION TABLE								
FUNCTION	PHASE							
	1	2	3	4	5	6	7	8
VEHICLE RECALL	-	-	-	X	-	-	-	X
PED RECALL	-	-	-	-	-	-	-	-
RED LOCK	-	-	-	-	-	-	-	-
YELLOW LOCK	-	X	-	-	-	X	-	-
PERMIT	-	X	-	X	-	X	-	X
PED PHASES	-	-	-	X	-	-	-	X
LEAD PHASES	X	-	X	-	X	-	X	-
DUAL ENTRY	-	X	-	X	-	X	-	X
SEQUENTIAL TIMING	-	-	-	-	-	-	-	-
START-UP YELLOW	-	X	-	-	-	X	-	-
OVERLAP A	-	-	-	-	-	-	-	-
OVERLAP B	-	-	-	-	-	-	-	-
OVERLAP C	-	-	-	-	-	-	-	-
OVERLAP D	-	-	-	-	-	-	-	-
EXCLUSIVE	-	-	-	-	-	-	-	-
SIMULTANEOUS GAP	-	X	-	X	-	-	-	X

Function Table reflects initial operation.

PHASE INTERVAL SETTINGS								
FUNCTION	PHASE							
	1	2	3	4	5	6	7	8
MAX. I	-	19.5	-	44	-	19.5	-	44
MAX. II/FIEW	-	29.5	-	49	-	29.5	-	49
WALK	-	7	-	7	-	-	-	7
FLASH DW	-	22	-	22	-	-	-	22
MAX. INITIAL	-	-	-	-	-	-	-	-
MIN. GREEN	-	5	-	10	-	5	-	10
T B R	-	-	-	-	-	-	-	-
T T R	-	-	-	-	-	-	-	-
OBSERVE GAP	-	-	-	-	-	-	-	-
PASSAGE	-	0	-	0	-	0	-	0
MIN. GAP	-	-	-	-	-	-	-	-
ADDED INITIAL	-	-	-	-	-	-	-	-
YELLOW	-	3.5	-	4	-	3.5	-	4
RED CLEAR	-	1	-	2	-	1	-	2
RED REVERT	-	2	-	2	-	2	-	2
WALK II	-	7	-	7	-	-	-	7

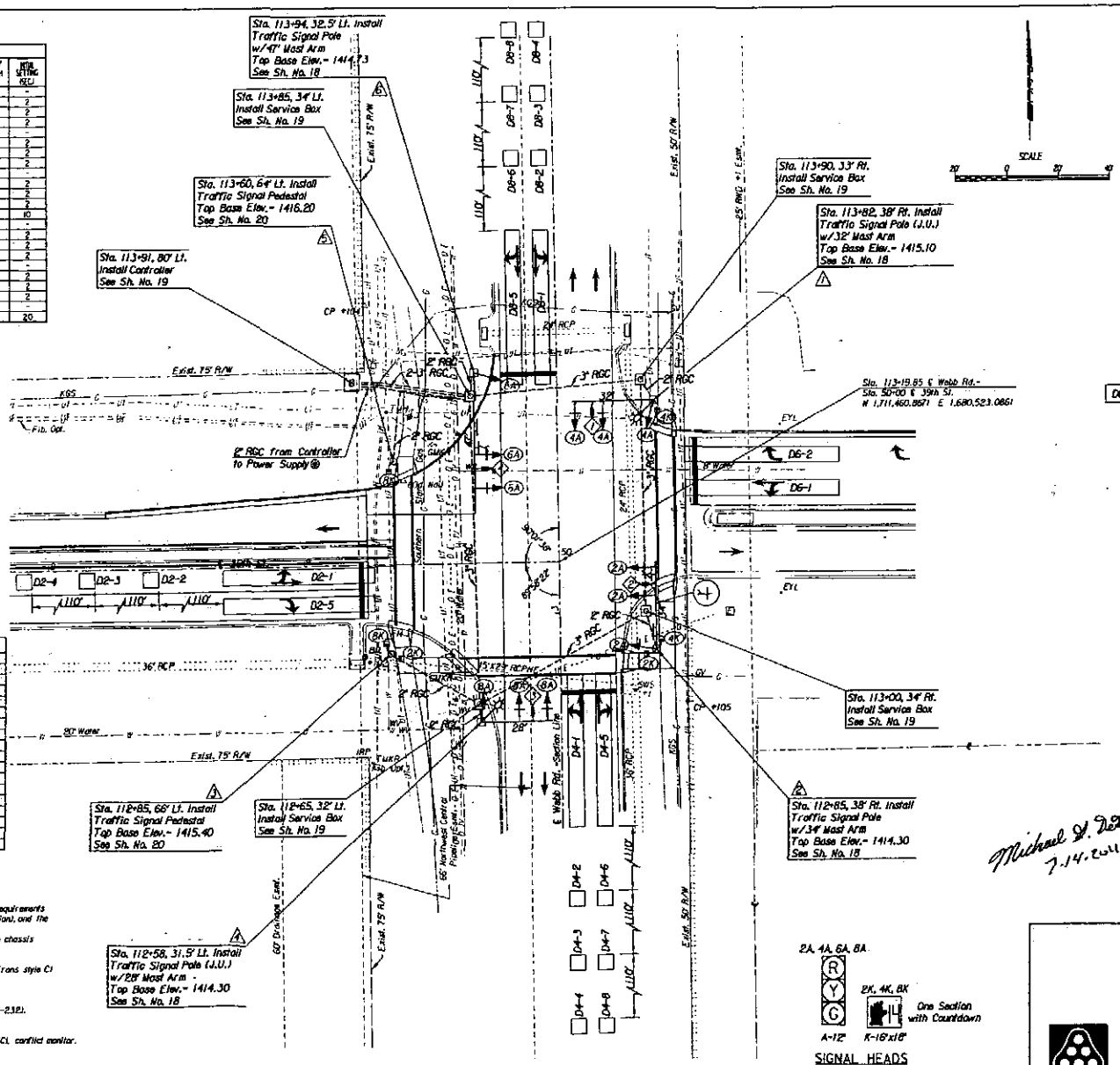
Phase Interval Settings reflect initial operation.

EQUIPMENT SPECIFICATIONS
2070 CONTROLLER

A. Controller Unit: The 2070L controller supplied shall meet the requirements outlined in CalTrans TEES 2002 (latest revision), and the following requirements:

1. The 2070L controller shall have a 19" EIA rack mountable chassis (mated to the ITO cabinet).
2. 2070-1B CPU module with RJ-45 Ethernet port.
3. 2070-2A C1 Field I/O module for compatibility with CalTrans style C1 connector.
4. 2070-3B 8x40 front panel with LCD display.
5. 2070-4A 10 amp power supply.
6. 2070-7A asynchronous serial communications module (RS-232).
7. Any unused slot position shall have a cover plate.

B. Conflict Monitor: The Conflict Monitor supplied shall be 2010 ECL conflict monitor.



LEGEND

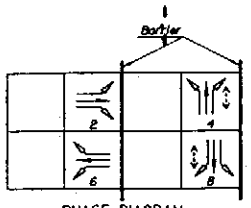
- Traffic Signal Pole with Mast Arm & Length
- Traffic Signal Pedestal
- Traffic Signal Head
- Traffic Signal Head with Backplate
- Video Detection Camera
- Pedestrian Signal Head
- Controller with Pad
- Service Box (Pre-Fab)
- R3-5L Sign
- R3-5R Sign
- Conduit - Rigid Galvanized (RGC) or HDPE
- Signal Phase & Head Type
- Signal Pole Reference Number
- Video Detection Camera Reference Number
- Street Name Sign
- Luminaire with Arm
- Meter and Enclosure
- Lane Use Arrows
- D(Phase) Detector Zone

SCALE 20 0 20 40

Exact location to be determined by Westar Energy

Contractor shall run all four conduits indicated in a single trench through the area 10' either side of the Southern Star Central Gas line crossing as shown on those plans.

Utilities	
Gas	Kansas Gas Service
Gas	Southern Star Central
Power	Westar Energy
Telephone	AT&T
Television	Cox Communications
Water	Wichita Water and Sanitary Sewer



PHASE DIAGRAM

- Protected Movement
- Permitted (Permissive) Movement
- Protected Pedestrian Movement

SIGNAL HEADS

No.	Revision	By	Date

39TH STREET & WEBB RD.

TRAFFIC SIGNAL PLAN

JAMES L. MAUDUR, P.E.-CITY ENGINEER
CITY OF WICHITA PROJECT NO. 472-84720

Professional Engineering Consultants, P.A.
303 S. POPLAR • WICHITA, KANSAS 67211
316-262-2691 • FAX 316-262-2003

Designed by DRM	Job No. 10312		
Drawn by SVB	Date April 2011	No. 16 of 31	

Plotted By: svb Date: 6/13/2011 3:46:36 PM
FILE: N:\2010\10312\Signal\10312-Signal Plan.dgn

City of Wichita Project No. 472-84720
PEC Job No. 32-10312-0042
39th St. & Webb Rd. Intersection
Offsets to Southern Star Gas Line

Prepared By: Derick Millican, P.E. (Professional Engineering Consultants, PA
Date: April 20th, 2011

Description	Roadway	Station (Roadway)	Offset (Roadway)	Distance to Southern Star Gas Line
Traffic Signal Pole	Webb Rd.	112+58	31.5' Lt.	20.5'
Signal Service Box	Webb Rd.	112+65	32' Lt.	20.3'
Traffic Signal Pedestal	Webb Rd.	112+85	66' Lt.	12.9'
Traffic Signal Pedestal	Webb Rd.	113+60	64' Lt.	11.9'
Signal Service Box	Webb Rd.	113+85	34' Lt.	17.5'
Traffic Signal Controller	Webb Rd.	113+91	80' Lt.	28.7'
Traffic Signal Pole	Webb Rd.	113+94	32.5' Lt.	18.8'

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Relocation of Kansas Gas Transfer Station (Kellogg/151st Street West Intersection) (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the reimbursement agreement.

Background: On January 6, 2009, the City Council approved a design concept for the Kellogg Freeway, from 111th Street West to 151st Street West. The project will include frontage roads from 143rd Street to 151st Street. Kansas Gas Service has a transfer station at 151st Street that is in conflict with the City's project. The transfer station is located on private property that is being acquired for the roadway. The Company has indicated that it will relocate its transfer station to accommodate the City's project if the City reimburses the Company for all of its actual costs, both direct and indirect.

Analysis: An agreement has been prepared for the relocation. The work will be performed by Kansas Gas Service.

Financial Considerations: The estimated total cost is $192,342. It is acknowledged that the actual cost may be greater or less than the estimate. Funds are available in the approved project budget. The funding source is the Local Sales Tax.

Goal Impact: This project addresses the Efficient Infrastructure goal by continuing the improvement of Kellogg to a freeway.

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

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

Attachments: Agreement.

UTILITY AGREEMENT

Dated: _____

Sedgwick County

City of Wichita Project: 472-84840 .

General Location: US 54 (Kellogg Ave) @ W 151st Street

THIS AGREEMENT is entered into between the City of Wichita (City) and Kansas Gas Service, a Division of ONEOK, Inc. (Company).

WHEREAS, the City proposes a highway improvement project on Highway No. 54 and W 151st Street, described above by Project Number and Location and shown on the Project Plans, and

WHEREAS, the Company is owner of certain facilities located within West Town Border Station site adjacent to W 151st street and Woodbine Lane as shown on the Project Plans (facilities) and these facilities are located on private right-of-way, in whole or in part, and not now entirely located upon existing highway right-of-way, and

WHEREAS, the Company's facilities need to be adjusted, altered, or relocated so the City may construct the Project and the Company may maintain its present services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree:

1. Upon receipt of formal written authorization from the City, the Company will proceed without unnecessary delay to make the changes to its facilities described in Exhibit A - Town Border (utility plans) in accordance with Paragraph 17 of this Agreement. The Company prepared Exhibit A - Town Border, which is attached to and incorporated into this Agreement.

2. Company certifies that its facilities are located on private right-of-way, in whole or in part, and are not now located entirely upon existing highway right-of-way or other public property. The estimated costs of right-of-way, preliminary engineering, labor, equipment, materials issued, materials returned, overhead and other items, as well as any credits which may be due the City for Company elected betterments, salvaged materials and extended service life (where applicable) are listed in detail on Exhibit B - Town Border. The Company has not included in Exhibit B - Town Border and shall not charge the City for any expense incurred in relocating those parts of the Company's facilities located on existing highway right-of-way or other public property. Exhibit B - Town Border is attached to and incorporated into this Agreement.

3. This Agreement is subject to and the Parties agree to comply with 23 C.F.R. Part 645 Subpart A ("Utility Relocations, Adjustments, and Reimbursement") (23 C.F.R. 645.101 *et seq.*), 23 C.F.R. Part 645 Subpart B ("Accommodation of Utilities")(23 C.F.R. 645.201 *et seq.*), and the current Kansas Department of Transportation Utility Accommodation Policy (UAP). The UAP is incorporated by reference into this Agreement.

4. The City grants the Company the right to locate and maintain its facilities upon highway right-of-way as shown on said Exhibit A - Town Border.

5. If future road work requires any changes to or relocations of Company's facilities, previously located on private right(s)-of-way but now located upon highway right-of-way as shown on Exhibit A - Town Border, the City will pay the cost of such changes or relocations.

6. The Company's easement rights or other interests in the property included in the proposed highway right-of-way as shown on Exhibit A - Town Border are subordinate to the City's right and privilege to use the highway right-of-way without restriction or limitation as long as the City is using such right-of-way for public highway purposes. The City's rights extend to all air rights, surface rights, and below-surface rights appropriate for the construction, operation, and maintenance of the highway. Providing the Company does not interfere with highway construction, operation, and maintenance, the Company may maintain its relocated or altered facilities; construct additional facilities under, over, through, and across the property if the Company's easement allows such construction; or perform any other act the Company's easement allows. In exercising its rights, the Company shall conform to all federal and state law, statutes, and regulations.

7. Company certifies and has provided evidence showing the Company has right of occupancy on private right-of-way by holding the fee, an easement, or other property interest. Company certifies that no deed, easement, agreement, or other document granting Company's existing right of occupancy on the private right-of-way requires Company to relocate its facilities for public purposes at Company's own expense.

8. City certifies that payment for the utility relocation does not violate Kansas law or any existing contract between the Company and the City.

9. Company shall notify the City of Wichita's City Engineer at Wichita, Kansas by phone Mike Jacobs, (316) 268-4235, five days in advance of the time it expects to start work under this Agreement.

10. The Company shall notify City of Wichita's City Engineer in charge of said project when beginning, discontinuing, resuming, and upon completing the work.

11. The method of computing the actual relocation costs shall be:

Actual and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by 23 C.F.R. 645 Subpart A.

12. Company shall keep a detailed and accurate account of all labor, materials, supplies, incidentals, and all other costs involved in performing the work for three years after the date the Company receives final payment. City Engineer in charge of said project or any authorized agent of City or the Federal Highway Administration (FHWA) shall have access at all times to such records.

13. Upon completion of the work in accordance with said plans and estimates and upon receipt of a detailed final statement of cost prepared in accordance with the 23 C.F.R. 645 Subpart A, the City will reimburse the Company for 95% of the total amount of final billing pending final audit. Upon completion of final audit, the City will reimburse the Company for the total amount of the final billing found eligible for payment by audit by the City and/or FHWA. It is fully understood by and between the parties hereto that the required work in connection with the Company's facilities may be directly related to a City of Wichita road project providing for Federal reimbursement of a percentage of the cost. It is further agreed and understood that the Company will reimburse the City, on demand, any sums disallowed to the City by the Federal Highway Administration, for non-compliance by the Company with the terms and conditions set out in the 23 C.F.R. 645 Subpart A, hereinbefore referred to. Local governmental units and Indian Tribal governments shall comply with OMB A-128.

14. At Company's request, the City will reimburse the Company for 95% of the cost reflected on monthly progress statements for partially completed work. However, the Company shall submit no

monthly progress statement with an amount earned of less than $50,000. The Company shall submit supporting statements with the Company's request for such intermediate progress payments.

After the Company completes the work according to the utility plans and after the City receives a detailed final cost statement that complies with 23 C.F.R. 645 Subpart A, the City will reimburse the Company for 95% of the total amount of final billing less intermediate progress payments, pending final audit. Upon completing the final audit, the City will reimburse the Company the total amount of the final billing that City and/or FHWA find eligible for payment by audit less intermediate progress payments.

The work required in this Agreement is being funded in whole or in part with federal funds. The Company will reimburse the City any sums disallowed under 23 C.F.R. Part 645 or under 48 C.F.R. Part 31 ("Contract Cost Principles and Procedures") (48 C.F.R. 31.000 *et seq.*). Sums disallowed include expenses paid for relocating the Company's facilities from existing highway right-of-way or other public property to the proposed highway right-of-way and expenses paid when the Company had an existing obligation to relocate at its own expense, among others. Local governmental units and Indian Tribal governments shall comply with OMB A-128.

15. To be eligible for reimbursement, changes in the original scope of work or additional adjustments not covered in Paragraph 17 of this Agreement shall be submitted on a supplemental agreement (or change order) and approved by the Company and the City before the Company makes such changes or adjustments.

16. Additional costs or revision in ratio or participation resulting from changes or adjustments under Paragraph 15 will become effective with submission of a final change order prior to or concurrent with final billing. Approval of such change order and/or ratio of participation will place the billing in line for audit and payment.

17. A. Description of work to be performed:

Relocate natural gas pipelines and appurtenances thereto located within the West Town Border Station to clear the proposed highway construction as shown on Exhibits A and B.

B. Method of accomplishing work shall be by The Company.

C. Estimated total cost of work to be accomplished is $ 192,341.66.

D. The percentage of total actual costs of completed work to be borne by the City is 100 %. Salvage value to be credited to project.

E. Time for Completion of Work: 150 days after receipt of Authorization to Proceed from the City, unless extended for unusually severe weather. Unusually severe weather is adverse weather that at the time of year in which it occurred is abnormal for the place in which it occurred.

F. The Company or the Company's contractor will furnish and erect the required traffic control signing and devices according to the attached Exhibits and the "Manual of Uniform Traffic Control Devices".

G. Special Provisions:

"All backfill within the highway right-of-way limits is to be compacted to a density equal to or greater than the density of the surrounding soil."

18. The Company shall maintain and pay all expenses necessary to maintain the Company's facilities located within the right-of-way of Project No. 472-84840. The Company shall take necessary and reasonable safety measures to protect the traveling public.

If the Company's maintenance obligation requires work within the highway right-of-way, the Company shall first obtain a written work permit from the proper authority. This permit shall contain reasonable regulations relating to such maintenance.

The Company may open and disturb the surface of the highway right-of-way without a work permit if an emergency exists that endangers the public's safety and requires immediate preventive action or repair. Immediately upon discovering the emergency, the Company shall notify the Kansas Highway Patrol, the KDOT Bureau of Construction and Maintenance, and the City of Wichita. The Company shall request a work permit from the proper authority no later than the second working day following the emergency.

The Company shall not service its facilities from the highway, highway shoulder, or highway ramps. Exception: if an emergency exists that makes other ingress and egress temporarily impossible, the Company may use the surfaced area of the highway right-of-way to approach the distressed lines or facilities and the Company may use the surfaced shoulder for temporary parking.

19. The Company agrees to hold the City and the City's authorized representatives harmless from and indemnify the City for all claims, suits, damages (whether property damages, personal injury damages, or economic damages) and costs (reasonable attorney's fees and defense costs) resulting from the Company's failure to comply with its contract obligations under this Agreement, resulting from the Company's negligent acts, errors, or omissions in relocating its facilities as provided in Paragraph 17, or all of the above. The Company's liability for personal injuries and property damage shall not exceed the liability limits in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq*. The Company shall have no obligation to hold the City or the City's authorized representatives harmless from and indemnify these persons for the City's or the City's representatives' own negligence.

20. The City agrees to hold the Company and the Company's authorized representatives harmless from and indemnify the Company for all claims, suits, damages (whether property damages, personal injury damages, or economic damages) and costs (reasonable attorney's fees and defense costs) resulting from the City's failure to comply with its contract obligations under this Agreement. The City's liability for personal injuries and property damage shall not exceed the liability limits in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq*. The City shall have no obligation to hold the Company or the Company's authorized representatives harmless from and indemnify these persons for the Company's or the Company's representatives' own negligence.

21. Kansas law governs this Agreement.

22. Kansas law (K.S.A. 46-239(c)) requires this agency to report all contracts entered into with any legislator, or any member of a firm of which a legislator is a member, under which the legislator or member of the firm is to perform services for this agency for compensation. Consequently, please indicate below if this contract is being entered into with a legislator or a firm in which a legislator is a member.

_____ Yes, this contract is with a legislator or a firm in which a legislator is a member.

That legislator is: _____

Business Phone _____

Address (Street, City, State, Zip Code)

_____

_____

X No, this contract is not being entered into with a legislator or a firm in which a legislator is a member.

23. This Agreement creates no third party beneficiaries and authorizes no third party to maintain a suit for damages under this Agreement as a third party beneficiary or in any other capacity.

24. This Agreement binds the Parties and the Parties' successors and assigns.

25. In signing this Agreement, the Parties and the individual person signing represent that the person signing has the authority and capacity to execute and legally bind the respective entity to this Agreement.

Executed by the COMPANY this

____ day of _____ 2011

COMPANY: Kansas Gas Service.

BY: _____
Teryl C Rose

TITLE: VP West Region Kansas Gas Service

ATTEST:

BY: _____

FEIN # 73-1520922

Send checks to: Kansas Gas Service
C/O Rachel Glover
1021 E 26th N
Wichita, KS 67207

Executed by the CITY this

_____ day of _____ 2011

CITY OF WICHITA

_____
Carl Brewer
MAYOR, City of Wichita

ATTEST:

BY: _____

APPROVED AS TO FORM:

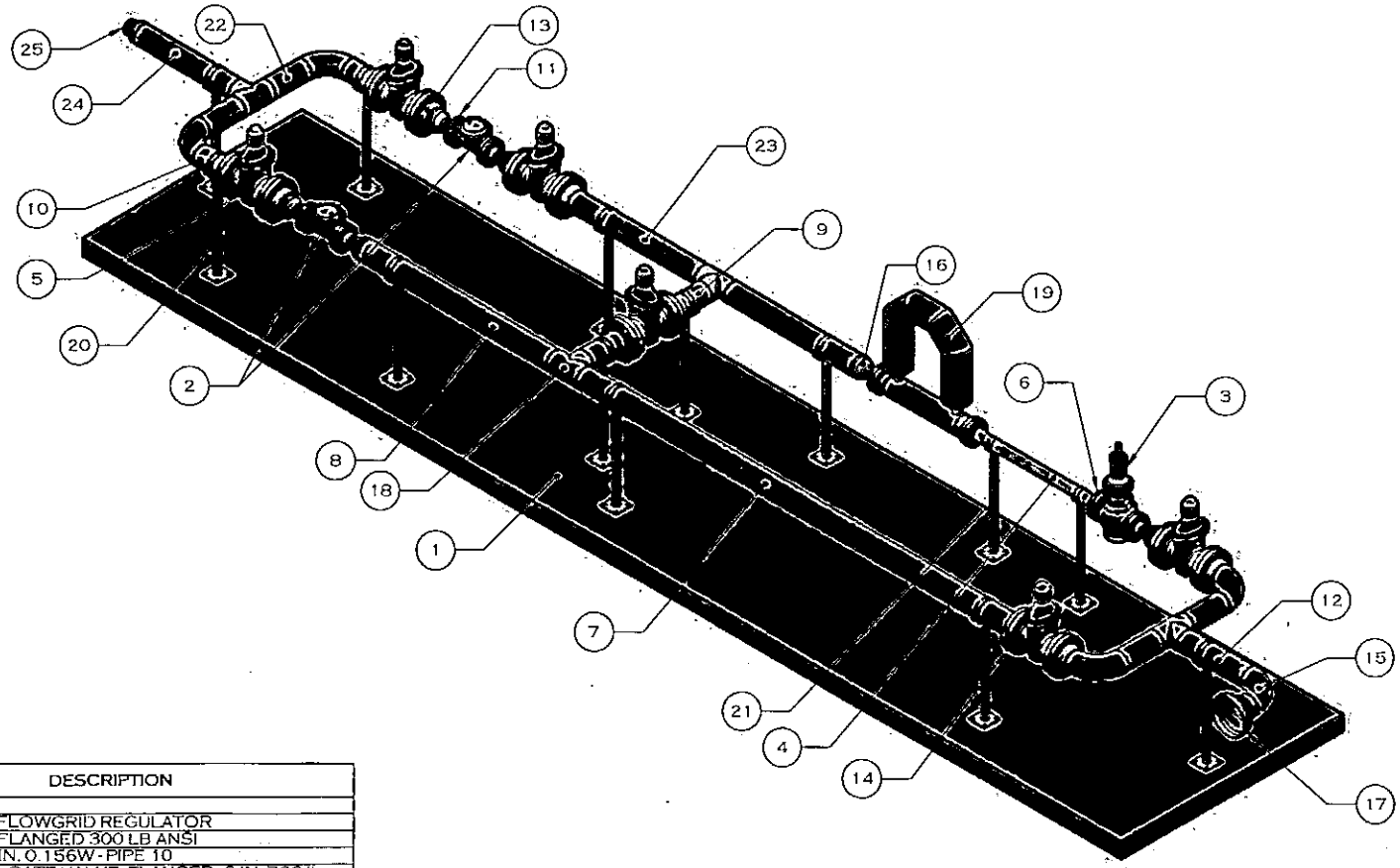
GARY E. REBENSTORF
DIRECTOR OF LAW

Exhibit B – Town Border

Current Estimates

	Cost	Total Cost
Project Management		$ 3,030.00
Vehicle Maintenance/Fuel	$ 3,030.00	
Material		$ 103,830.51
Skid with 3" Regulators	$ 37,908.00	
Pipe, Valves, and Fittings	$ 25,422.51	
Odorizer	$ 40,500.00	
Construction		$ 22,460.00
Labor - Kansas Gas Service	$ 22,460.00	
Contingencies (10%)		$ 12,629.05
TOTAL COST		$ 141,949.56
Admin & General (35.5%)		$ 50,392.09
TOTAL COST W/A&G		$ 192,341.66
Financial Responsibility:		
Reimbursement of 100% of actual costs by City of Wichita		$ 192,341.66

Estimate prepared by Rachel Glover
for Kansas Gas Service



ITEM NO.	QTY.	DESCRIPTION
1	1	SKID 2
2	2	MOONEY 3 IN FLOWGRID REGULATOR
3	1	441-57S - 3 IN FLANGED 300 LB ANSI
4	1	PIPE-STEEL, 3 IN, 0.156W - PIPE 10
5	6	KEROTEST M-1 GATE VALVE, FLANGED, 6 IN, 720#
6	2	3 IN SLIP-ON WELD FLANGE, 300#
7	1	PIPE-STEEL, 6 IN, 0.280W - PIPE 17
8	1	PIPE-STEEL, 6 IN, 0.280W - PIPE 14
9	2	PIPE-STEEL, 6 IN, 0.280W - PIPE 16
10	2	PIPE-STEEL, 6 IN, 0.280W - PIPE 13
11	6	3 IN WELD NECK FLANGE, 300#
12	1	PIPE-STEEL, 6 IN, 0.280W - PIPE 18
13	7	6 IN WELD NECK FLANGE, 300#
14	5	6 IN SLIP-ON WELD FLANGE, 300#
15	5	6 IN LONG RADIUS ELBOW
16	6	6 X 3 REDUCER, CONCENTRIC
17	1	12 X 6 REDUCER, CONCENTRIC
18	4	6 IN 3-WAY TEE
19	1	CORIOLIS METER
20	11	PIPE STAND - 6IN
21	2	PIPE STAND - 3IN
22	4	PIPE-STEEL, 6 IN, 0.280W - PIPE 12
23	2	PIPE-STEEL, 6 IN, 0.280W - PIPE 15
24	1	PIPE-STEEL, 6 IN, 0.280W - PIPE 11
25	1	6 X 4 REDUCER, CONCENTRIC

KANSAS GAS SERVICE

1021 EAST 26TH ST. N.
WICHITA, KS 67219 - 4308
(316) 832-1000

TITLE: EXHIBIT A - TOWN BORDER

APPLICATION: WEST TOWN BORDER PRELIMINARY DESIGN

UNLESS OTHERWISE SPECIFIED:
DIMENSIONS ARE IN INCHES
TOLERANCES:
FRACTIONAL ± 1/32
ANGULAR MACH ± 1°
ANGULAR BEND ± 2.5°
TWO PLACE DECIMAL ± 0.01
THREE PLACE DECIMAL ± 0.001

PROPRIETARY AND CONFIDENTIAL
THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF KANSAS GAS SERVICE. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF KANSAS GAS SERVICE IS STRICTLY PROHIBITED.

MATERIAL:

FINISH: UNFINISHED

DO NOT SCALE

DATE: 3/4/2011

REV: A

SCALE: 1:32

DRAWN BY: N. NEISES

SIZE: B

SHEET: 1 OF 1

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Change Order No. 2- 2011 Contract Street Maintenance Project (Districts II and III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the change order.

Background: On December 21, 2010, the City Council approved a construction contract with Cornejo & Sons, Inc. for a mill and asphalt overlay of Woodlawn, between Harry and Lincoln. The existing asphalt pavement is on a concrete base. When the existing pavement was milled, the amount of concrete base that needed to be removed and replaced was much greater than expected. Also, additional curb and gutter was replaced, and sidewalk was replaced to meet Americans with Disabilities Act requirements.

Analysis: The additional work includes: 580 square yards of concrete base repairs, 518 lineal feet of curb and gutter replacement, and 1,376 square feet of sidewalk.

Financial Considerations: The net total cost of the additional work is $4,191, with the total paid by American Recovery and Reinvestment Act funds. A previous change order resulted in savings of $21,474. Federal accounting guidelines required that the changes be made in two separate change orders. Therefore this change order is in the amount of $25,665. The original contract amount is $213,595. With this action and a previous change order, the final amount for the project is $239,260. This represents 12% of the original contract amount, and funding is available in the project budget.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing improved, safer streets throughout the City.

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 Change Order No. 2 and authorize the necessary signatures.

Attachments: Change Order No. 2.

PUBLIC WORKS-ENGINEERING

[6/16/2011]

CHANGE ORDER

To: Cornejo & Sons, Inc.

Project: Asphalt Mill & Overlay Woodlawn, Harry to Lincoln

Change Order No.: 2
Purchase Order No.: 031115
CHARGE TO OCA No.: 991308/132723

Project No.: 87N-0510-01/472-84851
OCA No.: 991308/132723
PPN: N/A

Please perform the following extra work at a cost not to exceed $25,664.69

Additional Work:
Field Office was not required, and all other items were field measured.

Reason for Additional Work:
Field measurements were taken on all Measured Quantity Items. Milling, overlay and striping took place from reduced project limits on the south end of the project to the original project limits at the north end. After milling, base repair locations were marked based on severity of deterioration of the concrete base and the concrete base had significantly more area than was originally estimated. Crushed Rock was installed where needed to provide a solid base course. Curb & Gutter, Valley Gutter, and Driveway repairs were done on all plan locations and plan lengths and areas were contracted or expanded based on attaining positive drainage through those areas. Several sections of curb and valley gutter that were severely deteriorated that were not located on the plan were also repaired. Sidewalk was replaced to meet ADA standards only adjacent to wheelchair ramp replacements. Partial Depth Asphalt Repair and Thermal Crack Repairs were not used on this project as there was no encountered asphalt base. No Manhole Lids were required to be adjusted or replaced.

Item	Negot'd/Bid	Qty		Unit Price		Extension
Lump Sum Items (Participating) (991308/132723)						
#4 Field Office & Laboratory (Type A)						
	Bid	(1) LS	@	$1,000.00	=	($1,000.00)
Measured Qty Items (Participating) (991308/132723)						
#5 AC Surface Coarse (BM-1B)(PG70-28)						
	Bid	(11) sy	@	$66.00	=	($726.00)
#6 Cold Milling Asph Surface (2" Nominal)						
	Bid	(1,486.89) sy	@	$ 1.50	=	($2,230.34)
#7 Partial Depth Asph Repair, BM-2 (PG 64-22 max 35% RAP)						
	Bid	(20) ton	@	$80.00	=	($1,600.00)
#8 Combined Curb & Gutter Repair						
	Bid	517.90 lf	@	$15.00	=	$7,768.50
#9 8" Reinf. Concr. Base Repair						
	Bid	579.55 sy	@	$45.00	=	$26,079.75
#10 Thermal Crack Repair						
	Bid	(200) lf	@	$20.00	=	($4,000.00)
#11 6" Reinf. Concrete Valley Gutter						
	Bid	70.41 sy	@	$40.00	=	$2,816.40
#12 Crushed Rock Installed						
	Bid	(-83.74) ton	@	$22.00	=	($1,842.28)
#14 4" Sidewalk Rem & Repl						
	Bid	1,375.71 sf	@	$ 4.00	=	$5,502.84
#15 6" Concr. Driveway Repair						

	Bid	(139.70) sf	@	$ 6.00 =	($838.20)
#16 8” Reinf. Concr. Driveway Repair					
	Bid	33.96 sf	@	$ 7.00 =	$237.72
#17 Adj. San. Sewer MH w/ Existing New Ring & Lid					
	Bid	(1) ea	@	$900.00 =	($900.00)
#18 Adj. San. Sewer MH & Repl old Ring & Lid w/ New Ring & Lid					
	Bid	(1) ea	@	$1,000.00 =	($1,000.00)
#19 Adj. Storm Water MH with New Ring & Lid					
	Bid	(1) ea	@	$1,000.00 =	($1,000.00)

Measured Qty Items – Pvmt Mrkgs (Participating) (991308/132723)

#21 4” Yellow or White Pvmt Mrkgs (Thermopl.)					
	Bid	(502.00) lf	@	$ 0.65 =	($326.30)
#22 6” Yellow or White Pvmt Mrkgs (Thermopl.)					
	Bid	(1,636.00) lf	@	$ 0.90 =	($1,472.40)
#22 12” Yellow or White Pvmt Mrkgs (Thermopl.)					
	Bid	100.00 lf	@	$ 1.95 =	$195.00
				TOTAL:	**$25,664.69**

CIP Budget Amount: $298,824.00

Consultant: STAFF
Total Exp. & Encum. To Date: $234,222.96
CO Amount: $25,664.69
Unencum. Bal. After CO: $38,936.35
12.0%

Original Contract Amt.: $213,595.00

Current CO Amt.: $25,664.69
Amt. of Previous CO’s: $0.00
Total of All CO’s: $25,664.69
% of Orig. Contract / 25% Max.:

Adjusted Contract Amt.: $239,259.69

Recommended By: James Wagner, P.E.

Greg Baalman, P.E. Date
Construction Engineer

Approved:

Jim Armour, P.E. Date
City Engineer,

Approved:

Contractor Date

Approved

Alan King Date
Director of Public Works & Utilities

Approved as to Form:

Gary Rebenstorf Date
Director of Law

By Order of the City Council:

Carl Brewer Date
Mayor

Attest:_____
City Clerk

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Change Order No. 3- McCormick Water Main Replacement (District IV)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve Change Order No. 3.

Background: On April 26, 2011, the City Council approved a construction contract with Duling Construction Company, Inc., to replace an old water main along McCormick between Osage and Vine. After the work began it was determined that an 8" waterline needed to be extended 197 feet to create a loop to an existing waterline.

Analysis: A change order has been prepared for the cost of the additional work. An itemized list of the work is contained in the attached change order document.

Financial Considerations: The total cost of the additional work is $20,282. The original contract amount is $510,347. This change order plus previous change orders represents 0.89% of the original contract amount. Funding is available within the existing project budget.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing reliable, compliant and secure utilities.

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 Change Order No. 3 and authorize the necessary signatures.

Attachments: Change Order No. 3.

November 10, 2011

PUBLIC WORKS-ENGINEERING

CHANGE ORDER

To: Duling Construction Co., Inc.

Project: McCormick Water Main Replacement

Change Order No.: 3
Purchase Order No.: 130371
CHARGE TO OCA No.: 636243

Project No.: 448-90212
OCA No.: 636243
PPN: 770631

Please perform the following extra work at a cost not to exceed $_20,282.00_

Additional Work: Adjust measured quantity bid items.

Reason for Additional Work: Adjust measured quantity bid items based upon quantities needed to complete the project.

Item	Negot'd/Bid	Qty	Unit Price		Extension
#4 WL Pipe 2"	Bid	18.0 lf @	$86.00	=	$1,548.00
#5 WL Pipe 6"	Bid	(2.0) lf @	$190.00	=	($380.00)
#6 WL Pipe 8"	Bid	197.00 lf @	$87.00	=	$17,139.00
#7 DICL Pipe 8"	Bid	5.0 lf @	$90.00	=	$450.00
#8 Valve Assembly 8"	Bid	1.0 ea @	$1,260.00	=	$1,260.00
#12 Blowoff Assembly 2"	Bid	(1.0) ea @	$900.00	=	($900.00)
#13 2" Service Outlet Assembly	Bid	1.0 ea @	$1,550.00	=	$1,550.00
#15 CIMJ Plug, 8"	Bid	1.0 ea @	$550.00	=	$550.00
#16 Curb Inlet Barrier	Bid	(7.0) ea @	$90.00	=	($630.00)
#17 1" Long Services	Bid	2.0 ea @	$980.00	=	$1,960.00
#18 1" Short Services	Bid	(3.0) ea @	$755.00	=	($2,265.00)
			Total	**=**	**$20,282.00**

CIP Budget Amount: $625,000.00 Original Contract Amt.: $510,347.00

Consultant: Young & Associates
Total Exp. & Encum. To Date: $562,518.67
CO Amount: $20,282.00
Unencum. Bal. After CO: $42,199.33

Current CO Amt.: $20,282.00
Amt. of Previous CO's: $9,807.54
Total of All CO's: $30,089.54
% of Orig. Contract / 25% Max.: 5.89%
Adjusted Contract Amt.: $540,436.54

Recommended By:

Greg Baalman, P.E.
Construction Engineer

Date

Approved:

Jim Armour, P.E.
City Engineer

Date

Approved:

Approved

_____ _____
Contractor Date

_____ _____
Alan King Date
Director of Public Works & Utilities

Approved as to Form:

By Order of the City Council:

_____ _____
Gary Rebenstorf Date
Director of Law

_____ _____
Carl Brewer Date
Mayor

Attest:_____
City Clerk

CITY OF WICHITA
City Council Meeting
January 10, 2012

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 3737 North Seneca for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: In 2007, the City of Wichita and Sedgwick County entered into an agreement with Federal Emergency Management Agency (FEMA) whereby it was agreed that the City and County would provide certification that the Wichita-Valley Center Flood Control levee system meet revised FEMA levee standards. As part of this certification process, certain portions of the levee system were identified as needing rehabilitation. One such segment is located at 3737 North Seneca. The 0.88 acre property is zoned and improved for residential use. The ingress/egress to the improvements is impacted by the straitening of the levee property line. Currently, the driveway is between the house and the levee. As a result of the project, the driveway will be moved to the south of the residential improvements.

Analysis: The owner agreed to accept the appraised offer of $1,300, or $0.58 per square foot for the land. In addition to the land value, the appraiser attributed compensation as damages to the driveway, however; the cost of replacing the driveway is $4,565. An additional $2,435 is required to cover the cost of relocating the carport and move the fence.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $9,800 is requested. This includes $8,300 for the acquisition and $1,500 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving storm water issues in a major residential area.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the budget; 2) Approve the real estate agreement; and 3) Authorize the necessary signatures.

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

PROJECT: North Levee

DATE: December 16, 2011

COUNTY: Sedgwick

TRACT NO.: 52

CITY OF WICHITA, KANSAS
A MUNICIPAL CORPORATION

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT made and entered into this 16th day of December, 2011 by and between:

Kerry L. Brown and Laura A. Brown, landowners,
and the City of Wichita, State of Kansas,

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey unto the City, their duly authorized agents, contractors and assigns the right to enter upon the following described land in Sedgwick County to wit:

A Right-of-way Acquisition Described as Follows:

See attachment with legal description.

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. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City and its authorized representatives from any and all costs, liabilities, expenses, suits, judgements, 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 until the relocation is completed. In no event will the land owner(s) be required to move until the City becomes legally entitled to the property.

The City agrees to purchase the above described real estate, and to pay therefore, the following amount within 45 days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 2,418.6 sq. ft. for right-of-way	$1,300.00
sq. ft. for Temporary Easement	$0.00
Cost to Cure:	$0.00
Damages including but not limited to:	
Damages to driveway and loss to remainder	$7,000.00
TOTAL	**$8,300.00**

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

Kerry L. Brown

Laura A. Brown

City of Wichita
County of Sedgwick
State of Kansas

BUYER:
City of Wichita, KS, a municipal corporation

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, Director of Law

MEMORANDA

Rev. 9-94
Form No. 1716

D. O. T.

Exact and full name of owner, as it appears of record:

Kerry L. Brown and Laura A. Brown, husband and wife

If mortgage or other liens, show names of holders:

_____

REMARKS:

RECOMMENDED BY: _____
Dennis Keegan, Acquisition Agent

Rev. 9-94
Form No. 1716

D. O. T.

Tract #52

ADDITIONAL TAKING DESCRIPTION:

A portion of Lot 8, Walnut Grove, Sedgwick County, Kansas, described as commencing at the southeast corner of said Lot 8; thence N01°04'54"W, along the east line of said Lot 8, 809.55 feet; thence S89°15'22"W, parallel with the south line of said Lot 8, 349.42 feet to a point on the east line of the Chisholm Creek Diversion Condemnation Case A-39338 for a point of beginning; thence N49°04'25"E, along the east line of said Chisholm Creek Diversion, 163.91 feet to a deflection point in the east line of said Chisholm Creek Diversion; thence N59°58'25"E, along the east line of said Chisholm Creek Diversion, 192.85 feet to a deflection point in the east line of said Chisholm Creek Diversion; thence N79°38'04"E, along the east line of said Chisholm Creek Diversion, 40.33 feet to a deflection point in the east line of said Chisholm creek Diversion; thence S64°17'30"W, 80.22 feet; thence S59°47'16"W, 149.54 feet; thence S51°54'43"W, 163.87 feet to the point of beginning.

Additional taking contains 2,418.6 square feet or 0.056 acres.

Kerry L & Laura A Brown Tract "52" (Key # A-14346):

Lot 8, Except the South 809.55 feet and Except the east 15 feet, in Walnut Grove, Sedgwick County, Kansas and Except portion taken in Condemnation Case A-39338

ADDITIONAL TAKING DESCRIPTION:

A portion of Lot 8, Walnut Grove, Sedgwick County, Kansas, described as commencing at the southeast corner of said Lot 8; thence N01°04'54"W, along the east line of said Lot 8, 809.55 feet; thence S89°15'22"W, parallel with the south line of said Lot 8, 349.42 feet to a point on the east line of the Chisholm Creek Diversion Condemnation Case A-39338 for a point of beginning; thence N49°04'25"E, along the east line of said Chisholm Creek Diversion, 163.91 feet to a deflection point in the east line of said Chisholm Creek Diversion; thence N59°58'25"E, along the east line of said Chisholm Creek Diversion, 192.85 feet to a deflection point in the east line of said Chisholm Creek Diversion; thence N79°38'04"E, along the east line of said Chisholm Creek Diversion, 40.33 feet to a deflection point in the east line of said Chisholm creek Diversion; thence S64°17'30"W, 80.22 feet; thence S59°47'16"W, 149.54 feet; thence S51°54'43"W, 163.87 feet to the point of beginning.

Additional taking contains 2,418.6 square feet or 0.056 acres.

Pt. #	State Plane Northing	State Plane Easting
3101	1,708,316.01	1,643,650.59
5201	1,709,140.81	1,643,285.62
5202	1,709,248.17	1,643,409.45
5203	1,709,344.66	1,643,576.40
5204	1,709,351.91	1,643,616.07
5205	1,709,341.46	1,643,631.23
5206	1,709,317.12	1,643,543.80
5207	1,709,241.88	1,643,414.58

PRESTON A. STEWART
LICENSED
LS-1386
12-17-10
KANSAS
LAND SURVEYOR

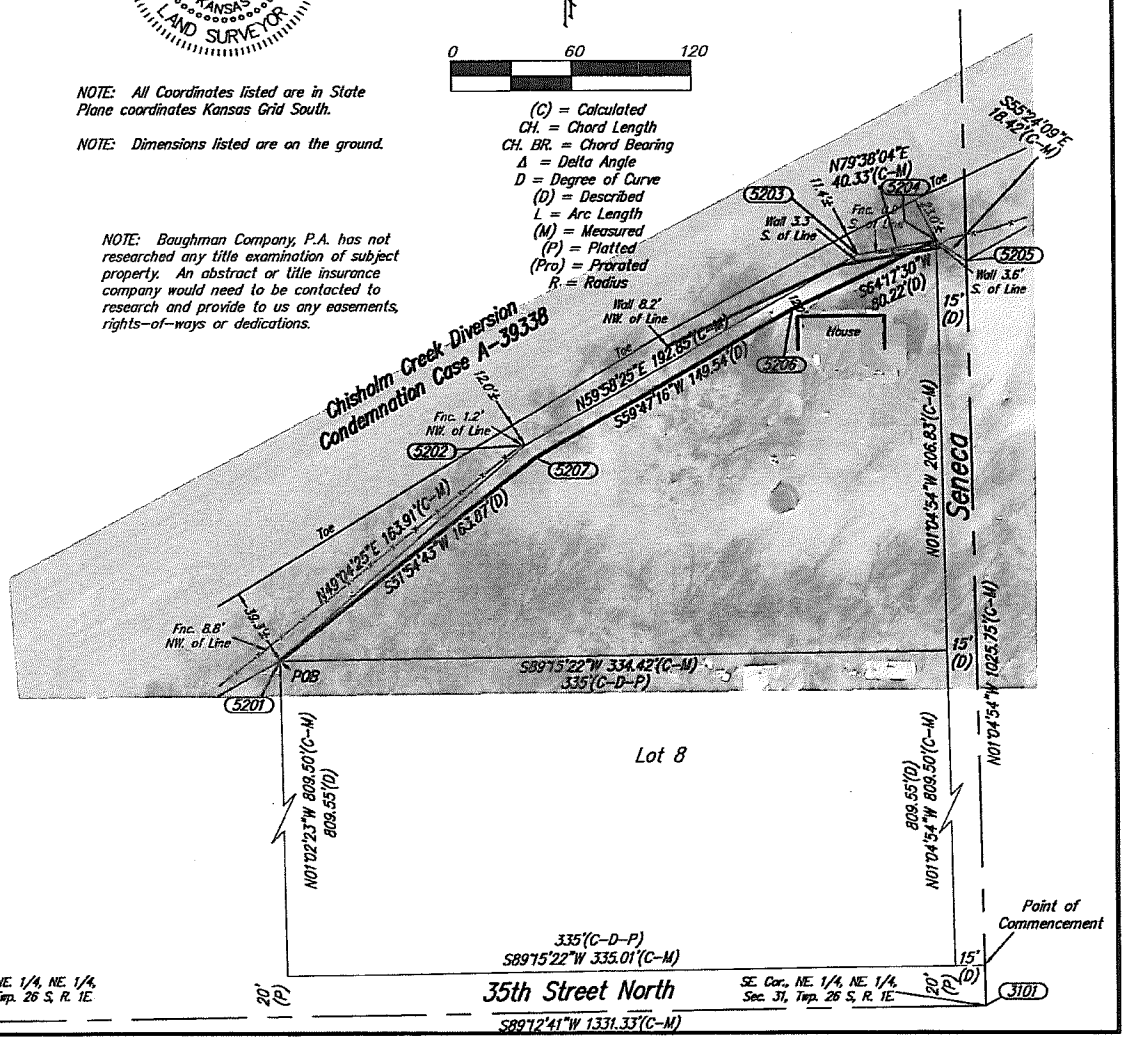
NOTE: All Coordinates listed are in State Plane coordinates Kansas Grid South.

NOTE: Dimensions listed are on the ground.

NOTE: Baughman Company, P.A. has not researched any title examination of subject property. An abstract or title insurance company would need to be contacted to research and provide to us any easements, rights-of-ways or dedications.

0 60 120

(C) = Calculated
CH. = Chord Length
CH. BR. = Chord Bearing
Δ = Delta Angle
D = Degree of Curve
(D) = Described
L = Arc Length
(M) = Measured
(P) = Platted
(Pro) = Prorated
R. = Radius



Baughman

Tract #52 - Exhibit
Part Lot 8, Walnut Grove
Sedgwick County, Kansas

Baughman Company, P.A. 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

REVISIONS	APPROVED GFS	DRAWN PAS
	SCALE 1"=60'	DATE December 17, 2010

E:|Projects|WVCFLS_10-07-P687|Tract_52.dwg 10-07-P687

3737 N Seneca

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CITY OF WICHITA
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 5217 West 13th Street North for the I-235 Floodway Crossing/13th Street Interchange Project (Districts V and VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On March 1, 2011, the City Council approved the design concept to construct an interchange at I-235 and 13th Street North and associated street improvements. On May 24, 2011, the City Council approved funding to complete project design and provide funding for right-of-way acquisition. The improvements include relocating Hoover Road and developing a partial interchange for 13th Street North and I-235. The project will require the acquisition of all or part of 23 tracts. One of the impacted tracts is a 38,333 square foot residential lot developed with a 986 square foot residence. The project requires 754 square foot corner clip from the northwest corner of the site together with a 105 square foot temporary construction easement. The improvements are not directly impacted by the acquisition.

Analysis: The parcel was appraised at $3,200. This amount is comprised of $1,000 for the land at $1.33 per square foot, $100 for the temporary construction easement, and $2,100 as damages for the loss of landscaping and trees. The owner declined the appraised offer. Upon inspection of the site, it appears that more trees will be impacted by the project than anticipated by the appraiser. Through negotiation the owner has agreed to accept $7,000, or $1,000 for the land, $100 for the temporary easement, and $5,900 for trees and landscaping. The amount for the land is comparable to other acquisitions in the immediate area.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $8,000 is requested. This includes $7,000 for the acquisitions and $1,000 for title work, surveys, closing costs, and other administrative fees.

Goal Impact: The acquisition of these parcels is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council; 1) Approve the budget; 2) Approve the real estate purchase agreement; and 3) Authorize the necessary signatures.

Attachments: Aerial map, real estate agreement, and tract map.

PROJECT: West 13th Street **DATE:** December 9, 2011

COUNTY: Sedgwick **TRACT NO.:** 0017

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY EASEMENT

THIS AGREEMENT Made and entered into this _____ day of _____, 2011, by and between

Laura Street Housing Ventures 1, LLC

309 S Laura, Wichita, KS 67211
(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 with access control and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property 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.

Real property to be acquired as right of way:
754 (Sq. Ft.) $ 6,900.00
Temporary Easement for construction:
105 (Sq. Ft.) $ 100.00

Improvement & Buildings acquired with right of way:
Trees

TOTAL: $ 7,000.00

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: Laura Street Housing Ventures 1, LLC

By: Manager
Mark J. Cazzo

By:

THE CITY OF WICHITA

By:

ATTEST:

By:

MEMORANDA

Exact and full name of owner, as name appears of record:

Laura Street Housing Ventures 1, LLC

If mortgage or other liens, show names of holders:
Conway Bank 08/09/07 Doc No. 28907023 $179,000.00 covers subject and other properties

REMARKS:

PIN/APN D-18139
Security Title File Number 2026163

APPROVED TO FORM:

Gary E. Rebenstorf, Director of Law

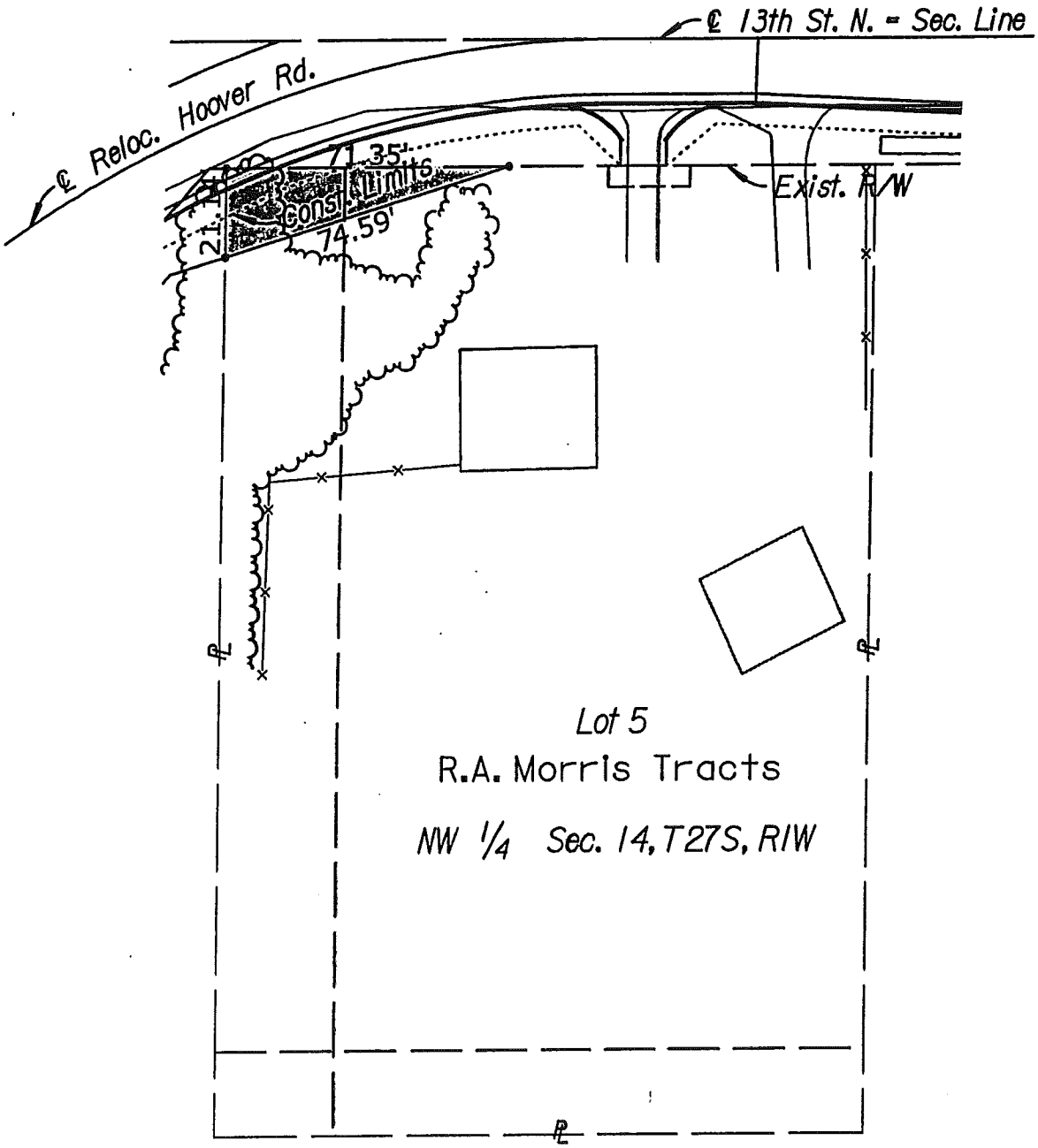
RECOMMENDED BY:

Gerald Cain, Project Manager

TRACT #17A - D-18139

Laura Street Housing Ventures I, LLC
Proposed Right of Way

Not to Scale



JAMES R. BECKETT
REGISTERED
LS-832
KANSAS
LAND SURVEYOR
3-15-11

March 15, 2011

Tract #17A – D-18139
Laura Street Housing Ventures 1, LLC
RIGHT-OF-WAY:

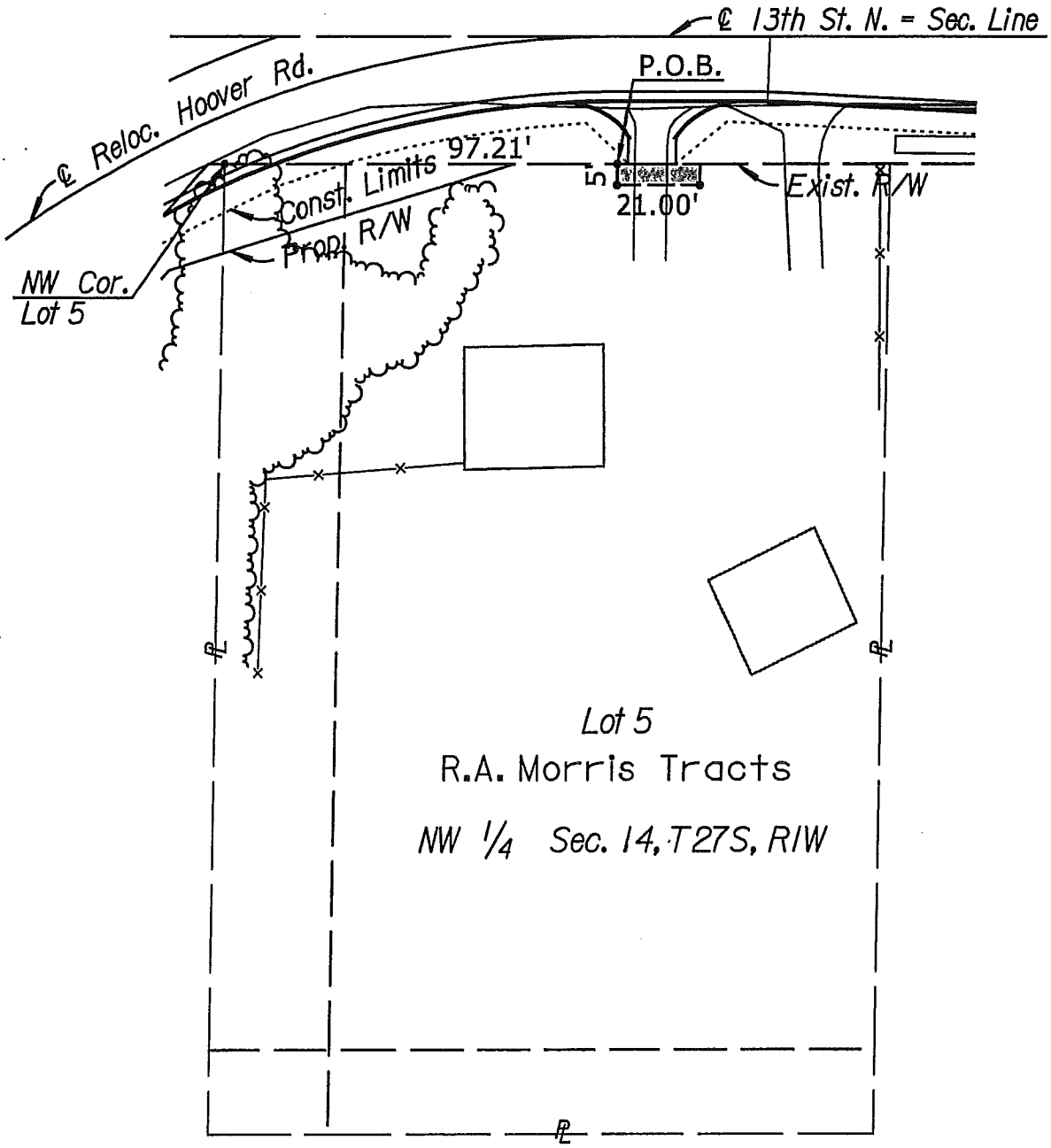
Beginning at the Northwest corner of Lot 5, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence East, along the North line of said Lot 5, a distance of 71.35 feet; thence Southwesterly for a distance of 74.59 feet to a point on the West line of said Lot 5; thence North, along said West line, a distance of 21.14 feet to the point of beginning, containing 0.017 acres (754.01 sq. ft.), more or less.

JAMES R. BECKETT
REGISTERED
LS-832
KANSAS
LAND SURVEYOR

TRACT #17B - D-18139

Laura Street Housing Ventures I, LLC
Temporary Construction Easement

Not to Scale



JAMES R. BECKETT
REGISTERED
3-15-11
LS-832
KANSAS
LAND SURVEYOR

March 15, 2011

Tract #17B – D-18139
Laura Street Housing Ventures 1, LLC
TEMPORARY CONSTRUCTION EASEMENT:

Commencing from the Northwest corner of Lot 5, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence East, along the North line of said Lot 5, a distance of 97.21 feet to the point of beginning; thence continuing East, along said North line, a distance of 21.00 feet; thence South, perpendicular to said North line, a distance of 5.00 feet; thence West, parallel with said North line, a distance of 21.00 feet; thence North, perpendicular to said North line, a distance of 5.00 feet to the point of beginning, containing 0.002 acres (105.00 sq. ft.), more or less.

JAMES R. BECKETT
REGISTERED
3-14-17
LS-832
KANSAS
LAND SURVEYOR

Laura Street Housing Ventures 1, LLC

D-18139

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
January 10, 2012

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1058 North Hoover for the I-235 Floodway Crossing/13th Street Interchange Project (Districts V and VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On March 1, 2011, the City Council approved the design concept to construct an interchange at I-235 and 13th Street North and associated street improvements. On May 24, 2011, the City Council approved funding to complete project design and provide funding for right-of-way acquisition. The improvements include relocating Hoover Road and developing a partial interchange for 13th Street North and I-235. The project will require the acquisition of all or part of 23 tracts. One of the impacted tracts is a 51,836 square foot residential lot developed with a 1,869 square foot, 2-story residence. The project requires a 3,300 square foot strip along the north part of the site together with a 100 square foot temporary construction easement. The improvements are not directly impacted by the acquisition.

Analysis: The parcel was appraised at $2,400. This amount is comprised of $2,000 for the land at $.61 per square foot, $100 for the temporary construction easement, and $300 as damages for the loss of landscaping. The owner declined the appraised offer. Through negotiation the owner has agreed to accept $3,400, or $3,000 for the land at $.91 square foot, $100 for the temporary easement, and $300 for the fencing and landscaping. The amount for the land is comparable to other acquisitions in the immediate area.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $4,400 is requested. This includes $3,400 for the acquisitions and $1,000 for title work, surveys, closing costs, and other administrative fees.

Goal Impact: The acquisition of these parcels is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

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

Recommendation/Action: It is recommended that the City Council; 1) Approve the budget; 2) Approve the real estate purchase agreement; and 3) Authorize the necessary signatures.

Attachments: Aerial map, real estate agreement, and tract map.

PROJECT: West 13th Street **DATE:** _____

COUNTY: Sedgwick **TRACT NO.:** 0010

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED AND TEMPORARY EASEMENT

THIS AGREEMENT Made and entered into this 7 day of Dec., 2011, by and between

Kevin C. Kralicek and Dorothy L. Kralicek

1058 North Hoover Road, Wichita, KS 67212
(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 and Temporary Easement to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property 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.

Real property to be acquired as right of way:
3,300 (Sq. Ft.) $ 3,300.00
Temporary Easement for construction:
100 (Sq. Ft.) $ 100.00

Improvement & Buildings acquired with right of way:
Gravel and shrub

TOTAL: $ 3,400.00

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: _____
Kevin C. Kralicek

By: _____
Dorothy L. Kralicek

THE CITY OF WICHITA

By: _____
Carl Brewer, Mayor

ATTEST:

By: _____
Karen Sublett, City Clerk

MEMORANDA

Exact and full name of owner, as name appears of record:

Kevin C. Kralicek and Dorothy L. Kralicek
If mortgage or other liens, show names of holders:
Mortgage – NationsBank, N.A.

REMARKS:

PIN/APN D-18150
Security Title File Number 2026174

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____
Gerald Cain, Project Manager

Tract #10B - D-18150
Kevin C. Kralicek & Dorothy L. Kralicek
TEMPORARY CONSTRUCTION EASEMENT:

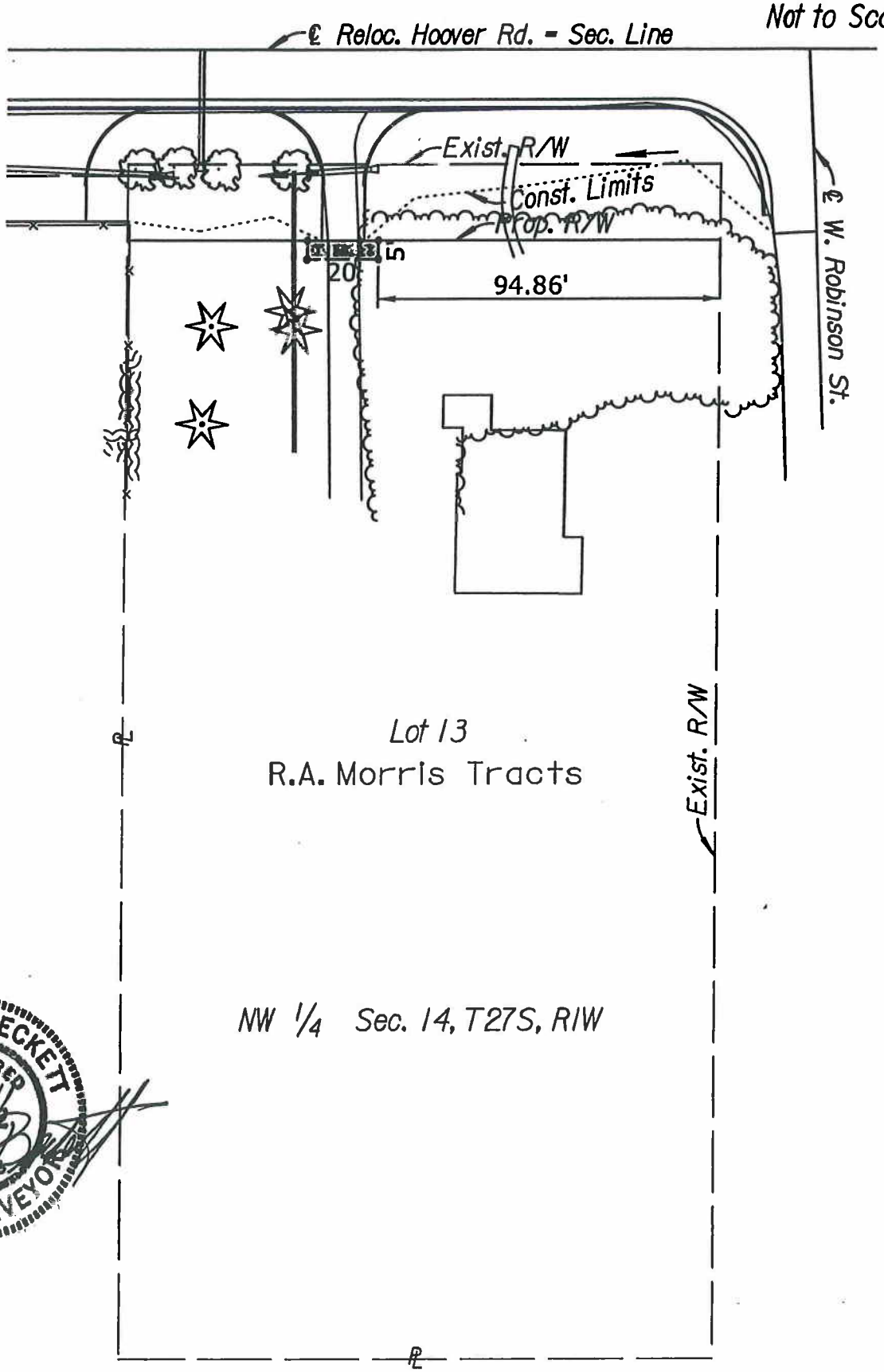
The East 5 feet of the West 25 feet of the South 20 feet of the North 114.86 feet of Lot 13, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, containing 0.002 acres (100.00 sq. ft.), more or less.

JAMES R. BECKETT
REGISTERED
3-14-11
LS-832
KANSAS
LAND SURVEYOR

TRACT #10B - D-18150

Kevin C. Kralicek & Dorothy L. Kralicek
Temporary Construction Easement

Not to Scale



JAMES R. BECKETT
REGISTERED
3-15-11
LS-832
KANSAS
LAND SURVEYOR

March 15, 2011

Tract #10A - D-18150
Kevin C. Krallcek & Dorothy L. Krallcek
RIGHT-OF-WAY:

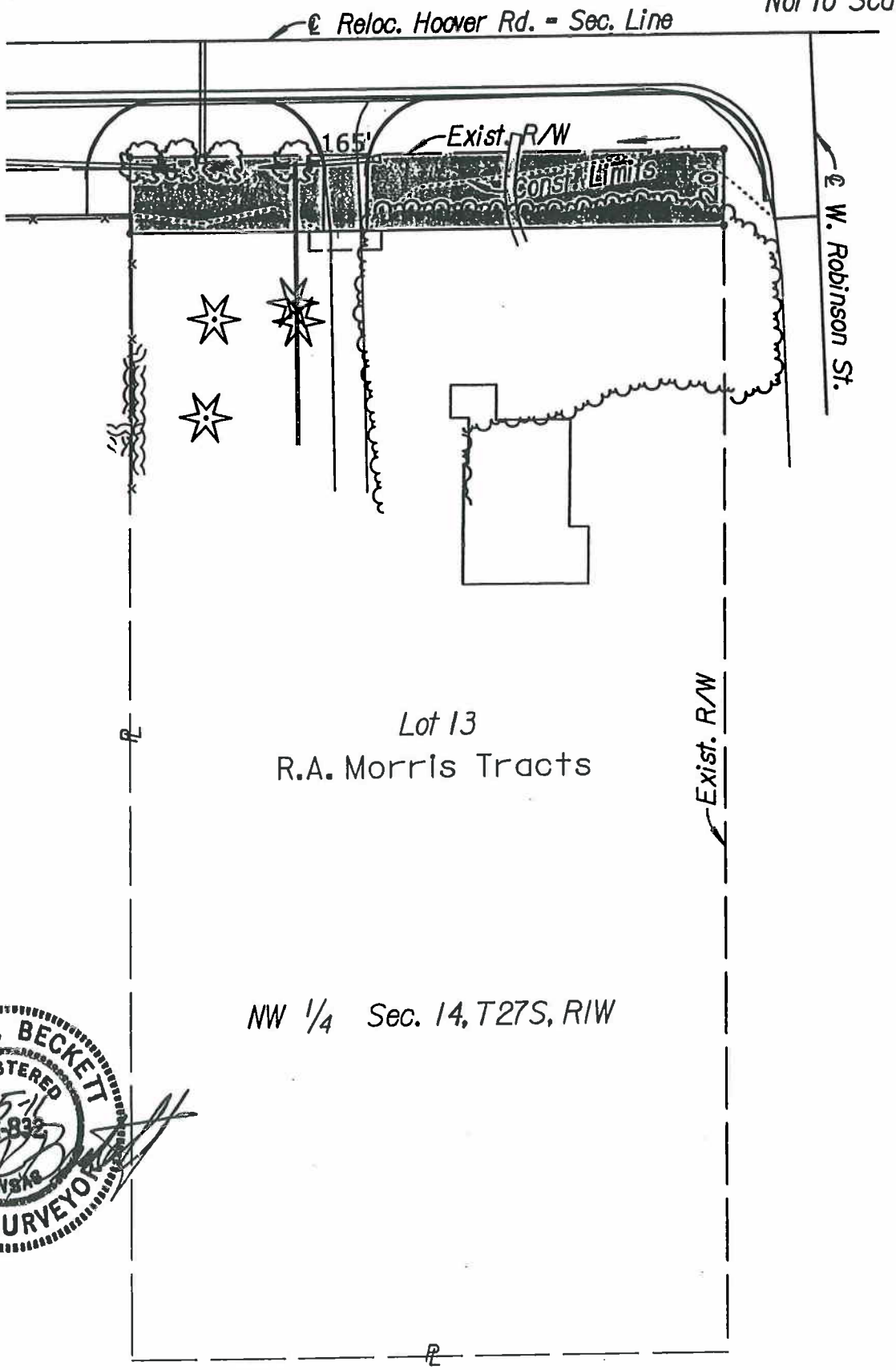
The West 20 feet of the North 165 feet of Lot 13, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, containing 0.076 acres (3,300.00 sq. ft.), more or less.

JAMES R. BECKETT
REGISTERED
LS-832
KANSAS
LAND SURVEYOR

TRACT #10A - D-18150

Kevin C. Kralicek & Dorothy L. Kralicek
Proposed Right of Way

Not to Scale

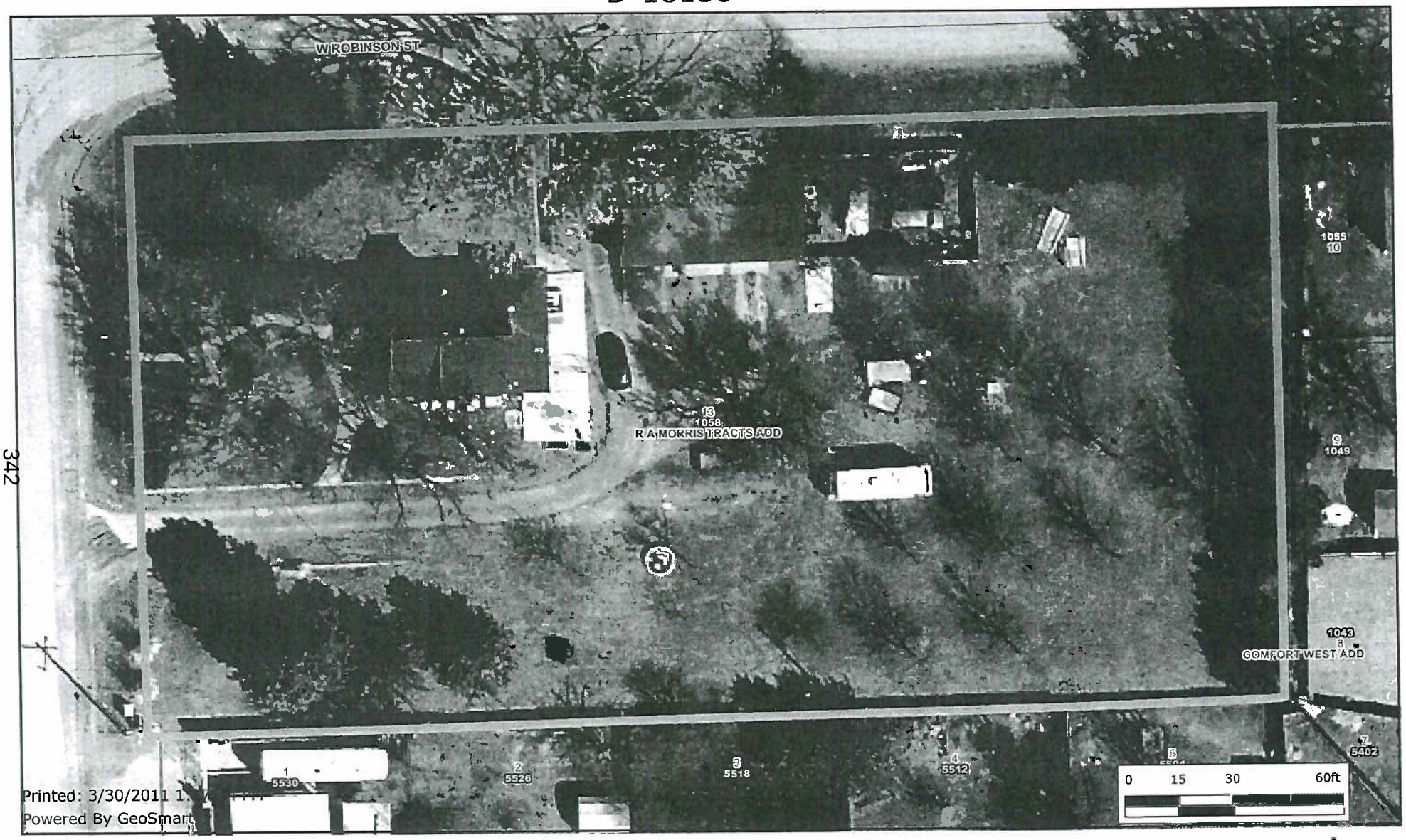


JAMES R. BECKETT
REGISTERED
3-15-11
LS-832
KANSAS
LAND SURVEYOR

March 15, 2011

Kevin C. & Dorothy L. Kralicek

D-18150



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CITY OF WICHITA
City Council Meeting
January 10, 2012

TO: Mayor and City Council Members

SUBJECT: Partial Acquisition of 522 East 49th Street North for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project (County)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: In 2007, the City of Wichita and Sedgwick County entered into an agreement with Federal Emergency Management Agency (FEMA) whereby it was agreed that the City and County would provide certification that the Wichita-Valley Center Flood Control levee system meet revised FEMA levee standards. As part of this certification process, certain portions of the levee system were identified as needing rehabilitation. One such segment is located at 522 East 49th Street North in Park City. The one acre property is zoned and improved for residential use. The proposed acquisition is along the north property line, at the rear of the property. The proposed area consists of 1,825 square feet.

Analysis: The owner rejected the estimated market value of $1,100, or $.60 per square foot. The owner is not seeking compensation for the loss of the hedge row trees that will be removed as a result of the project, however; there are three Pistache Chinese trees within the proposed right-of-way. An estimate to replace and install the new trees came in at $4,375. In addition to the floodway fence, the owners had installed a second fence. Through negotiation the owner agreed to accept $7,600, or $1,825 for the land, or $1 per square foot; $4,375 for the trees; and $1,400 for fencing.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $8,600 is requested. This includes $7,600 for the acquisition and $1,000 for closing costs and title insurance.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving storm water issues in a major residential area.

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

Recommendations/Actions: It is recommended that the City Council; 1) Approve the budget; 2) Approve the real estate agreement; and 3) Authorize the necessary signatures.

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

PROJECT: North Levee **DATE:** 12/07/2011

COUNTY: Sedgwick **TRACT NO.:** 31

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 7 day of December, 2011, by and between

Robert C. Bales and Susan K. Bales

522 E 49th Street N, Park City, KS 67219
(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.

Real property to be acquired as right of way:
1,825 (Sq. Ft.) $ 7,600.00
Temporary Easement for construction:
(Sq. Ft.) $ N/A

Improvement & Buildings acquired with right of way:
Trees, landscaping and fencing

TOTAL: $ 7,600.00

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: Robert C. Bales

By: Susan K Bales

THE CITY OF WICHITA

By: _____
Carl Brewer, Mayor

ATTEST:

By: _____
Karen Sublett, City Clerk

MEMORANDA

Exact and full name of owner, as name appears of record:

Robert C. Bales and Susan K. Bales

If mortgage or other liens, show names of holders:
Mortgage dated May 6, 2003, filed May 13, 2003 on Film 2693, Page 334, executed by Robert C. Bales and Susan K. Bales, husband and wife, amount $15,000

REMARKS:

PIN/APN KE-PC-02543
Security Title File Number

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

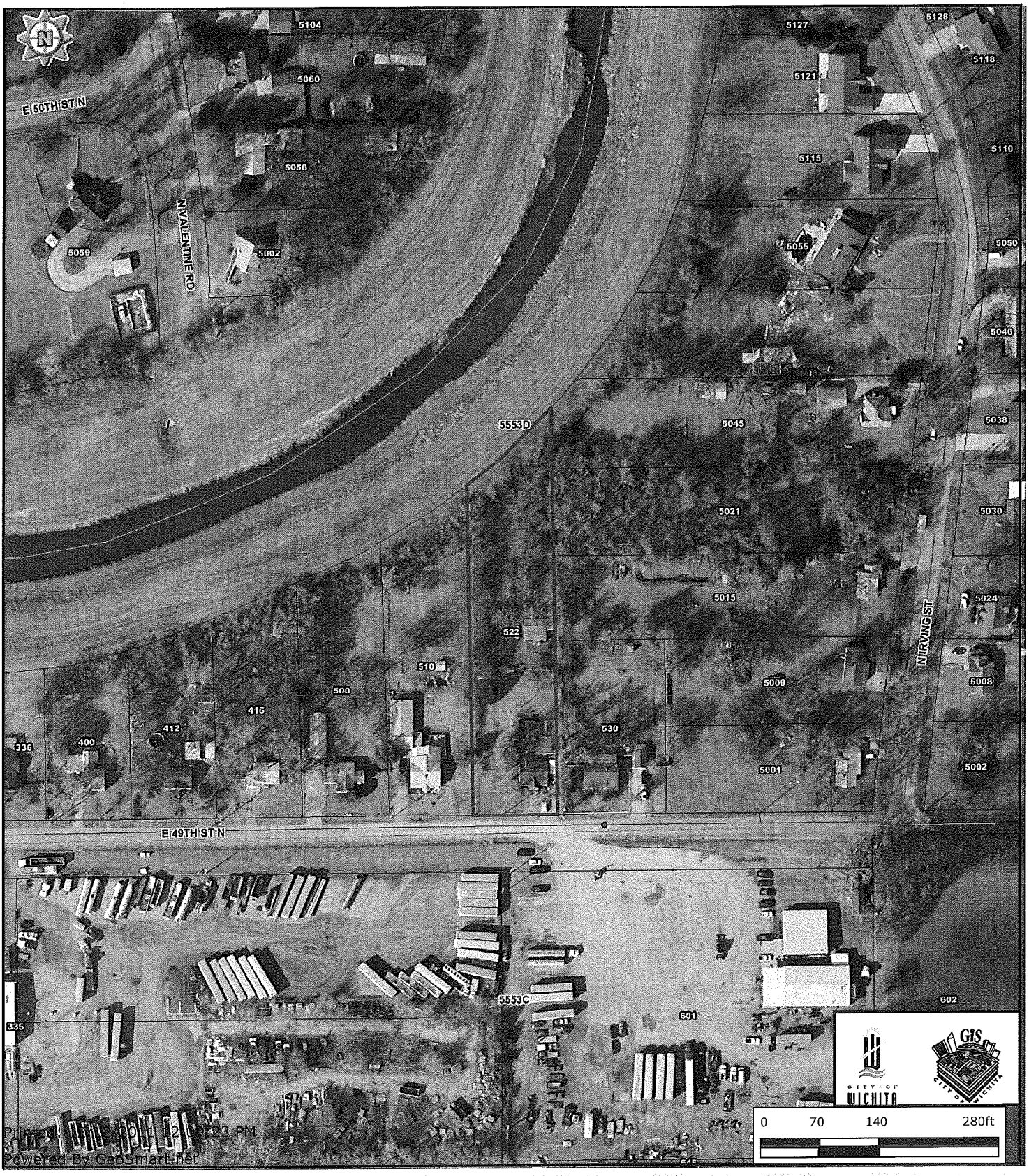
Gerald K. Cain, Project Manager

Tract #31

ADDITIONAL TAKING DESCRIPTION:
A portion of Lot 44, in Broadway Heights, an Addition to Wichita, Kansas, Sedgwick County, Kansas, lying north of the following described line, commencing at the southwest corner of said Lot 44; thence N00°56'01"W (assumed), along the west line of said Lot 44, 333.00 feet to the point of beginning; thence N55°32'26"E, 119.96 feet to a point on the east line of said Lot 44, said point being 400.00 feet north of the southeast corner of said Lot 44 and for a point of termination; EXCEPT that portion condemned for flood control purposes in District Court Case A-41501.

Additional taking contains 1,825.1 square feet, or 0.042 acres.

522 East 49th Street



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.

Robert C. Bales and Susan K. Bales Tract "31" (Key # KE-PC-02543):

Lot 44, in Broadway Heights, an Addition to Wichita, Sedgwick County, Kansas, EXCEPT that portion condemned for flood control purposes in District Court Case A-41501.

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Additional taking contains 1,825.1 square feet, or 0.042 acres.

NOTE: Baughman Company, P.A. has not researched any title examination of subject property. An abstract or title insurance company would need to be contacted to research and provide to us any easements, rights-of-ways or dedications.

0 60 120

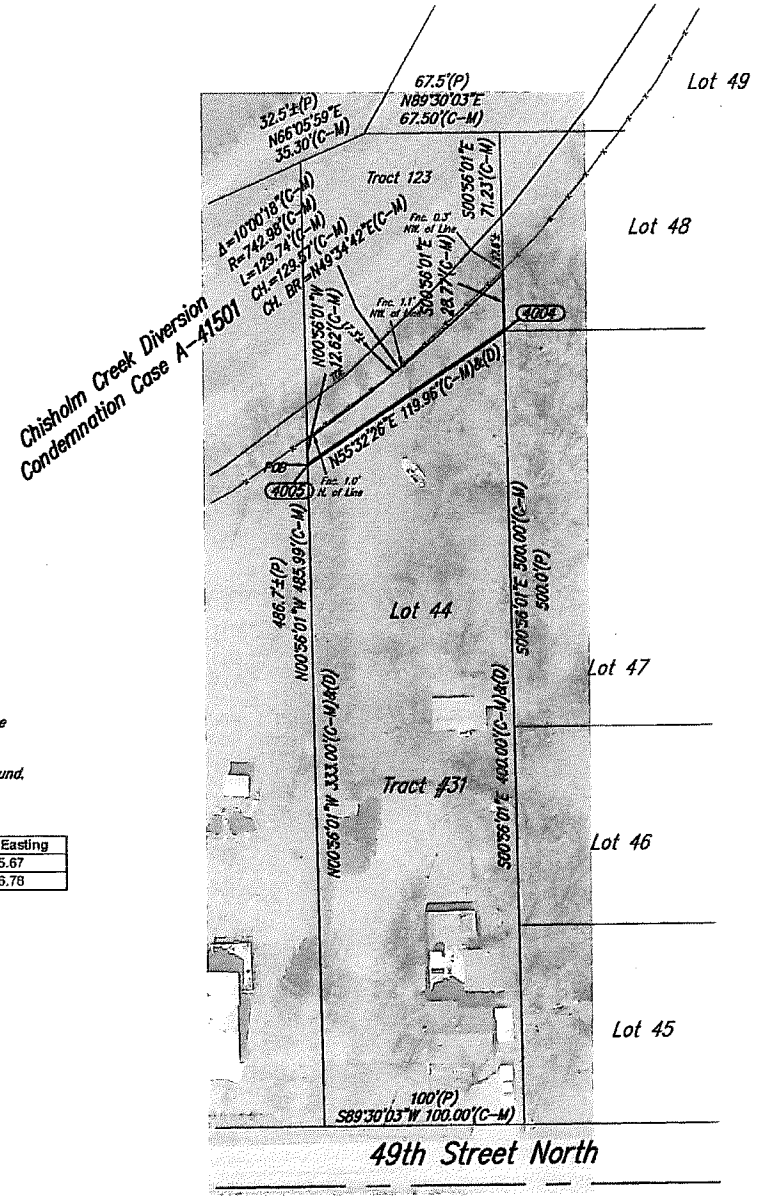
(C) = Calculated
CH. = Chord Length
CH. BR. = Chord Bearing
Δ = Delta Angle
(D) = Described
L = Arc Length
(M) = Measured
(P) = Platted
(Pro) = Prorated
R = Radius

PRESTON A. STEWART
LICENSED
LS-1386
11-9-10
KANSAS
LAND SURVEYOR

NOTE: All Coordinates listed are in State Plane coordinates Kansas Grid South.

NOTE: Dimensions listed are on the ground.

Pt. #	State Plane Northing	State Plane Easting
4004	1,718,119.15	1,649,765.67
4005	1,718,051.28	1,649,666.78



Baughman

Tract #31 - Exhibit
Lot 44, Broadway Heights
Sedgwick County, Kansas

Baughman Company, P.A. 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

REVISIONS	APPROVED MGC	DRAWN PAS
	SCALE 1"=60'	DATE November 9, 2010

E:|Projects|WVCFLS_10-07-P687|Tract_31.dwg 10-07-P687

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Request for Granting of Waterline Easement on IRB Property (Mid-Continent Instruments, Inc.) (District II)

INITIATED BY: Office of Urban Development

AGENDA: Consent

Recommendation: Approve the Resolution granting the Waterline Easement.

Background: On November 11, 2003, the City Council approved the issuance of Industrial Revenue Bonds (IRBs) in the amount not-to-exceed $3,300,000 to refinance existing debt on the corporate headquarters building for Mid-Continent Instruments, Inc., located at 9400 E. 34th Street North in northeast Wichita. The land on which the building is located is pledged as security to the IRBs and as such is titled to the City of Wichita during the term of the bond issue. Mid-Continent is now requesting the granting of an easement for utilities. Due to City ownership of the IRB property, City Council approval of the Easement Agreement is required.

Analysis: The requested easement is required in order to facilitate certain improvements to the water connections serving the Mid-Continent property. The Tenant has advised and the Trustee will certify that no event of default exists under the Lease. The Tenant will further certify that the granting of the easement and deed will not be detrimental to the proper conduct of the Tenant's business in any manner or degree, and that the granting of the easement and deed will not impair the effective use or interfere with the efficient and economical operation facility and will not materially adversely affect the security pledged to the payment of the Bonds.

The easement is located on the north side of 34th Street North on the west side of the Mid-Continent building.

Financial Considerations: There are no financial considerations.

Goal Impact: Economic Vitality and Affordable Living. Responsive administration of the IRB program encourages the economic growth of the community.

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

Recommendations/Actions: It is recommended that the City Council approve the Resolution granting the Waterline Easement and authorize the necessary signatures.

Attachments: Resolution

RESOLUTION NO. 12-015

A RESOLUTION CONSENTING TO CREATION OF A WATER LINE EASEMENT, WITH RESPECT TO CERTAIN REVENUE BOND PROPERTY FINANCED WITH PROCEEDS OF THE CITY'S INDUSTRIAL REVENUE REFUNDING BONDS, SERIES VII, 2003 (DIDCOT, LC).

WHEREAS, the City of Wichita, Kansas (the "City") has previously issued its Industrial Revenue Refunding Bonds, Series VII, 2003 (DIDCOT, LC) dated November 1, 2003 in the aggregate principal amount of $3,295,000 (the "Series 2003 Refunding Bonds") for the purpose of refinancing and refunding certain debt on a certain office and manufacturing facility, located in the City of Wichita, Kansas (the "Facilities") (DIDCOT, LC); and,

WHEREAS, the City holds title interest in the Facilities financed by the above-referenced bonds and has leased such facilities to DIDCOT, LC, for the benefit of mid-Continent Instruments, Inc. under a certain Lease Agreement dated as of November 1, 2003 (the "Lease"); and,

WHEREAS, DIDCOT, LC, as Tenant under the Lease, desires to grant to the City of Wichita a certain water line easement, covering a portion of the Facilities, and further desires the City of Wichita to consent thereto as provided for under the terms of the Lease.

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

Section 1. The City hereby consents to the water line easement as described in the form of the easement instrument furnished concurrently with the Tenant's written application for approval of such easement.

Section 2. The Mayor or Vice Mayor of the City is authorized and directed to execute, and City staff shall deliver, the easement form for and on behalf of and as the act and deed of the City, in substantially the form approved on this date with such corrections or amendments thereto as the Mayor or Vice Mayor shall approve, which approval shall be evidenced by his/her execution thereof, and such other documents, certificates and instruments as may be necessary to carry out and comply with the intent of this Resolution. The City Clerk or Deputy City Clerk of the City is hereby authorized and directed to attest the easement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary to carry out and comply with the provisions of this Resolution and the duties of the City under the Lease.

Section 4. This Resolution shall take effect immediately upon its adoption by the governing body.

ADOPTED by the governing body of the City of Wichita, Kansas, this ___ day of January, 2012.

CITY OF WICHITA, KANSAS

By_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

_____
Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Fiber optic connectivity to the Water Center and Patrol South Police Substation.

INITIATED BY: IT/IS

AGENDA: Consent

Recommendation: Approve the contract and funding for the project.

Background: The Police Department's four substations are served by high capacity leased lines providing Ethernet data communications. This is necessary to handle the high bandwidth requirements of video and other data captured and transmitted by the Police Department from patrol car and body cameras. The IT Department issued a Request for Proposal for this connectivity and selected Cox Communications to provide the service based on the competitive bid. Since the award, staff has searched for alternative data communication methods to reduce cost and increase bandwidth.

Analysis: i3 International will deploy a patented technology network utilizing existing sewer lines. As a pilot, a96-fiber FOCUS™ cable will be implemented between the Central Maintenance Facility and Patrol South that will be owned by the City. The pilot will provide proof-of-concept for the technology as well as measuring the increase in throughput. I3 International holds the Patent and Intellectual Property rights for the FOCUS™ technology and is the only company within the United States that provides loose laid fiber cable through the sanitary and storm wastewater network. All pilot installations are undertaken by direct employees of i3 International and any extension of a pilot is deployed by approved and trained i3 International contractors. No existing providers in Wichita, Cox Communications, AT&T or Level 3 are approved or trained by i3. I3 was selected as a sole source because they own this patented technology. Purchasing Ordinance 35-856(b) Sole Source of Supply allows sole sourcing in such circumstances.

There are several methods of providing for fiber connectivity outside of using sewer lines however the costs for these are high. For possible future growth the section that crosses the Arkansas River will be a 432-fiber FOCUS™ cable. The total cost of the deployment is $65,000 ($8.19 per foot), a savings of 35% over the cost if implemented via a traditional method. I3 utilizes existing sanitary and storm sewers to protect the fiber optic cable, a method which eliminates the largest cost component of installing fiber optic cable.

The Information Technology Department evaluated the i3 system both for cost savings and function. The Patrol South Police substation was selected as a pilot because of current high-cost leased services for bandwidth and the availability of compatible sewer lines between the Central Maintenance Facility and Patrol South. This location offers the shortest distance from an existing fiber optic connection (the Central Maintenance Facility) to a facility (Patrol South).

Public Works and Information Technology provided data to i3 to ensure the sewer pipes were capable of accepting the fiber FOCUS™ cable and future maintenance of the lines would not be affected.

Financial Considerations: The cost to implement the i3 system is budgeted at $65,000the installation cost will be recovered in 4.86 years, assuming a capital cost of 4% per annum.
Information Technology will fund the initial cost through the Equipment Replacement Fund (ERF) and will continue to charge the Police department $1,327 monthly until the i3 system cost is recovered. Thereafter, IT will charge the Police Department a small maintenance fee (based on support requirements

of the system in the first 4 years) for the system after ERF is reimbursed, resulting in a reduction of more than $1,000 monthly while making significantly more bandwidth available at Patrol South.

Goal Impact: This project supports three core strategic priorities: Ensure Physical Safety, Protect Property, and Protect Public Infrastructure.

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

Recommendations/Actions: It is recommended that the City Council approve the funding and the contract for the project.

Attachments: i3 Group-Wichita Proposal

i3 International

Proposal for:

City of Wichita, Kansas

Point to Point Network Requirement

17th October 2011

A. Summary

The City of Wichita, Kansas, made an initial enquiry via i3-Groups website regarding the benefits of utilizing its patented FOCUS™ system in the deployment of fiber optic infrastructure for the City's own use. This resulted in a number of discussions and a meeting on August 9th 2011 from which i3-Group agreed to provide a proposal for a fully funded "proof of concept" to connect two City of Wichita municipal buildings.

The aim of this "proof of concept" is the acceptance of the FOCUS™ system for widespread use in other City of Wichita projects including, but not limited to, point to point connections, metro area networks and Fiber to the Home (FTTH) projects.

Utilizing i3-Group's patented FOCUS™ system, which enables fiber optic cable to be delivered through existing wastewater assets, will mean that the City will benefit from a next generation fiber optic network without the significant costs and disruption typically associated with a traditional build.

Experience has proven that such projects are most successful when completed in total partnership with the asset owner. Involving the City of Wichita Public Works Department at every stage of the deployment is essential, especially during the initial assessment of the wastewater asset for use with the FOCUS™ system.

The initial project will provide fiber optic connectivity between the City of Wichita Central Maintenance Facility (CMF) and the Police Department Patrol South Building off East Pawnee Avenue. The rationale for deploying a fiber optic network connecting these two sites being the increasing bandwidth demands required to transfer video evidence footage.

i3 International is mindful of the need to future proof the investment being made by the City of Wichita and the potential for this initial deployment forming part of a larger, city wide, metro area network. Therefore, i3 International's offer to the City is to deploy the network using 432 fiber FOCUS™ cable but at a one off discounted cost against installing a 96fiber FOCUS™ cable. The total cost of the network deployment is $65,000.16 or $8.19 per foot which equates to a saving for the City of 35% over the full cost of deploying a 432 fiber network subject to installation terms and conditions.

A full summary of costs is shown in the pricing section later in this document and is subject to survey and technology acceptance.

In summary the suggested technology solution has four distinctive benefits:

1. **Cost efficiency**: up to 60% savings in fiber optic network deployment costs over conventional network builds.
2. **Time efficiency:** up to 50% reduction in the time taken to complete the fiber optic network deployment.

3. **Operational efficiency:** minimum disruption to other economic/social activities throughout the fiber optic network deployment (minimal dig solution) and no impact on the hydraulics of existing City of Wichita wastewater network.
4. **Operational benefits for the City of Wichita:** ability by the Public Works Department to actively monitor, on a real-time basis, the wastewater network, through the use of sensors over the deployed fiber optic network.

i3-Group

Since its start up in 2002, i3-Group has invested more than USD $200 million in the development of innovative fiber optic network products and deployment techniques. Satisfying users' requirements for open access to high bandwidth in residential and business premises means using fiber optic cable. Optical cable provides the only future-proof capacity and connectivity to accommodate emerging and user demanded applications. A fiber network built using i3-Group's patented technology and proven "no dig" techniques is over 50% more rapidly deployable and thus becomes instantly affordable to end-users.

As you will be aware the initial capital costs associated with a Fiber to the Premise build are never the only factor to consider. Project roll-out timescales also have a substantial financial impact, along with the economic costs created through the disruption from the build out. i3-Group's technologies are able to reduce both the time and disruption by over 60% compared to traditional methods. This established approach makes cost effective use of existing "in the ground" infrastructure assets. Our innovative technology, expertise and "know-how" have been applied and proven around the world to deliver next generation fiber optic networks that are able to show a real return on investment.

i3-Group's proprietary R&D output continuously expands our technologies e.g. Atlantis (which makes use of potable water pipes) and ATM, a unique approach to micro-trenching. This suite of proven technologies enables an overall cost reduction in the rolling out of fiber networks of up to 70%. Current R&D programs include wastewater duct and generic water course level and flow monitoring / metrics techniques, combined with novel communication mechanisms for retrieval of level / flow / content monitor data via FOCUS™ system deployments.

i3-Group's unique business model and supporting platform readily attract investment thus allowing more homes and communities to be connected to true fiber optic broadband. Our proprietary systems and processes allow any community to benefit from using its existing infrastructure assets to cost-effectively achieve almost limitless bandwidth and ultra-high speeds.

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1. The Case for a Municipal Owned Fiber Optic Infrastructure

Think how it would be to have your own private network with virtually unlimited bandwidth along with the highest levels of security and reliability. Imagine moving data and connecting with other sites more quickly as well as increasing your bandwidth capacity with little disruption to your "business".

Now imagine that the relative cost of your network goes down and down as your bandwidth capacity goes up and up. If you're with us so far, imagine what a difference this would make to your "business". Having a dependable, secure network that virtually runs itself means you're free to develop your IT strategy with confidence, exploit business opportunities and have more time to see the results.

Now stop imagining – by utilizing i3-Groups patented technology all this is possible.

Our clients benefit from owning their own private network with virtually unlimited bandwidth along with optimum levels of security and reliability. Disruption to business is kept to an absolute minimum, with the movement of data and connection between sites faster than ever before, and being a dedicated network, there's no sharing and no restrictions on what you do with it or how much capacity you use.

1.1 Lowering Total Cost of Ownership (TCO)

CIOs are kept awake at night by the cost of 'keeping the lights on' with their network, when what they really want is to focus on strategic IT that delivers innovation for customers and differentiation for their "business".

Limitless bandwidth and economics. It's an affordability thing.

The way we look at it is like this. You probably don't generate your own electricity. So, for virtually limitless bandwidth on tap, why cling to the model of maintaining your organization's network pipes?

In particular, with traditional Telco partners there is significant cost every time you need more bandwidth – with dedicated fiber bandwidth upgrades are low cost by comparison.

By owning the fiber optic infrastructure the City of Wichita can reduce Opex whilst securing stable network capacity and retaining the ability to refresh, renew or change higher layer technology to meet the changing needs of your "business".

1.2 Business Continuity

The need for a Business Continuity Management (BCM) plan is widely acknowledged as a critical requirement to ensure the resilience of a business to any eventuality.

In this, the digital age, more and more businesses either trade online, or rely on e-communications. And it's not just consumer-facing organizations such as retailers and banks who are dealing with vast amounts of data; increasingly data is generated across a wider spectrum of sectors. Government departments are moving "customer" details online and the education sector is seeing an increasing number of online applications.

No business welcomes the loss of access to critical data; such a disruption can have a negative impact on both the balance sheet and brand reputation. In addition, many in the financial services and public sector domains face stringent requirements from regulatory bodies to store data securely and accessibly.

But how do you implement a Disaster Recovery or BCM plan?

Having business critical data stored securely is an essential component of a BCM plan. The use of safe, accessible and geographically diverse data centers is the most commonly adopted method of keeping data offsite yet instantly available.

Increasingly, data center sites are now in outlying urban areas which often provide more scope for size and security. The cost of connecting securely to a particular site plays a major factor in selection.

By owning the fiber optic infrastructure connecting municipal buildings to the CMF the City of Wichita would future proof the investment made in this site.

1.3 New Revenue Streams

Fiber optic infrastructure is becoming a valuable commodity in today's digital age!

Owning the deployed fiber optic network would provide the City of Wichita the opportunity to not only reduce their existing operational expenditure, associated with third party circuits, for internal network connectivity but also to diversify into new and lucrative markets such as managed services, dark fiber leasing, FTTP and Mobile 4G/LTE Backhaul.

1.4 Successful Example of a Municipal Owned Fiber Optic Infrastructure

Santa Monica City Net℠ is a 10 Gbps broadband initiative by the City of Santa Monica to support an environment for local businesses to compete in the global economy with cutting edge network solutions.

Santa Monica's fiber optic network offers many benefits to the tech and entertainment businesses headquartered along Santa Monica's Tech Coast. As a secure, fast, and cost-effective fiber optic network, Santa Monica City Net℠ provides the opportunity to integrate data, voice, and video, and efficiently manage data exchanges with business partners.

The city's fiber optic network assets extend throughout the downtown area and cover the majority of multiple tenant commercial buildings. The City of Santa Monica provides access direct to local businesses and through Internet Service Providers (ISPs) that service Santa Monica.

Lit Fiber

The city offers 100 Mbps, 1 Gbps, and 10 Gbps fiber optic connections from Santa Monica City Net^{SM} On-net buildings to any of the Internet Service Providers (ISPs) connected to the Santa Monica City Net^{SM} Lit Fiber Optic Network in downtown Los Angeles. There are over 160 ISPs located in the downtown Los Angeles data centers to obtain services ranging from IP transit, Virtual Private Networks, cloud services, and more. If you would like to establish a connection to an ISP not connected to the network currently, please complete the quote request form at right and we will invite the ISP to connect.

Dark Fiber Leasing

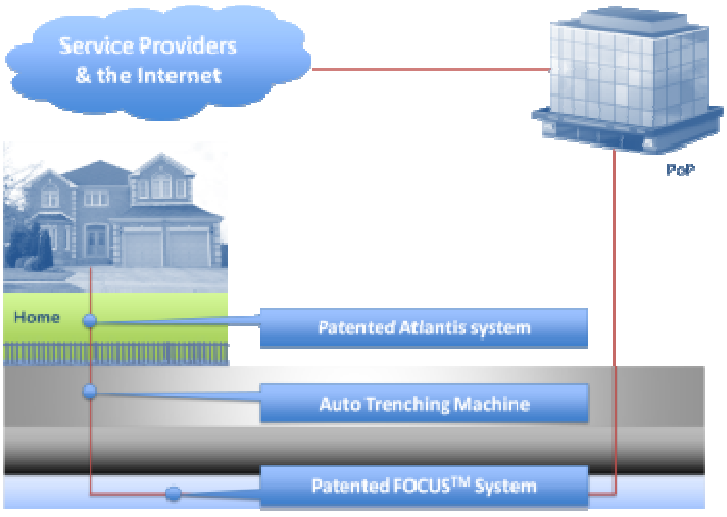
The city offers dark fiber leasing for businesses and organizations with high bandwidth requirements. The dark fiber leases are available with standard annual leasing options, priced per pair of dark fiber strands. Lease contracts are subject to annual adjustments for Consumer Price Index increases. An initial connection charge applies and any construction costs are due at completion.

2. Technology Platform and Cost Analysis

2.1 i3-Group Technology

i3-Group has looked at every element of the fiber delivery chain and, through our patented technologies, significantly reduced the cost and disruption associated with traditional methods of deployment - making affordable fiber optic networks a reality.

The diagram opposite provides an overview of the various key elements within the i3-Group FTTP solution, illustrating where we have developed technology and methodologies to deliver our world leading FTTP solution. The core focus is on delivering fiber to the premise in as cost effective and efficient manner as possible. This technology focus has lead to the development of some unique and innovative solutions, processes and procedures:



Patented FOCUS^{TM} System

FOCUS™ is the combined technologies and methodologies patented by i3-Group for the loose-lay of fiber optic cables within wastewater systems. FOCUS™ enables the construction of fiber optic networks to be completed at a fraction of the cost and time when compared to building the same infrastructure using traditional civil methods.

Features:

- Specially designed cable (high specific gravity with no coil memory) lies flat in the wastewater system without obstructing it.
- FOCUS™ cables are steel wire armored with an HDPE (High Density Polyethylene) outer sheath, making them highly resistant to damage.
- FOCUS™ can be installed in wastewater systems as small as 6 inch and of various construction types.

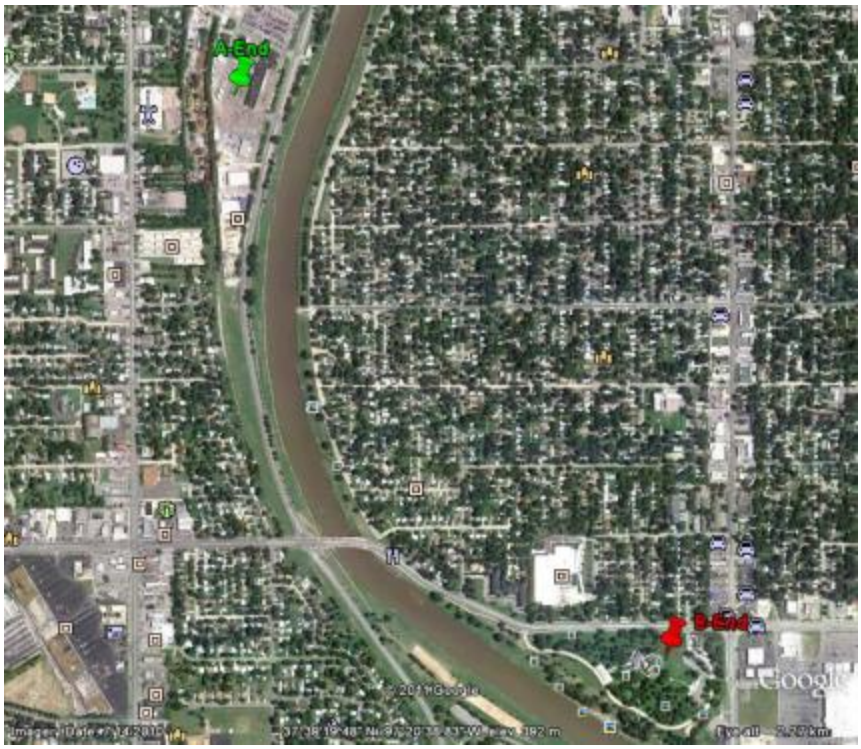
Years of experience of deploying FOCUS™ in a variety of live environments and projects on a global basis has allowed i3-Group to develop and refine the methodologies, installation techniques and specialized unobtrusive cables and fixings through a combination of real life findings and extensive research & development.

FOCUS™ was designed to have minimum negative effect on the hydraulics of the wastewater system, which has been proven from data gathered from live installations. In addition we have actually seen that at higher flow levels there can be a potential benefit to the wastewater system with FOCUS™ being present.

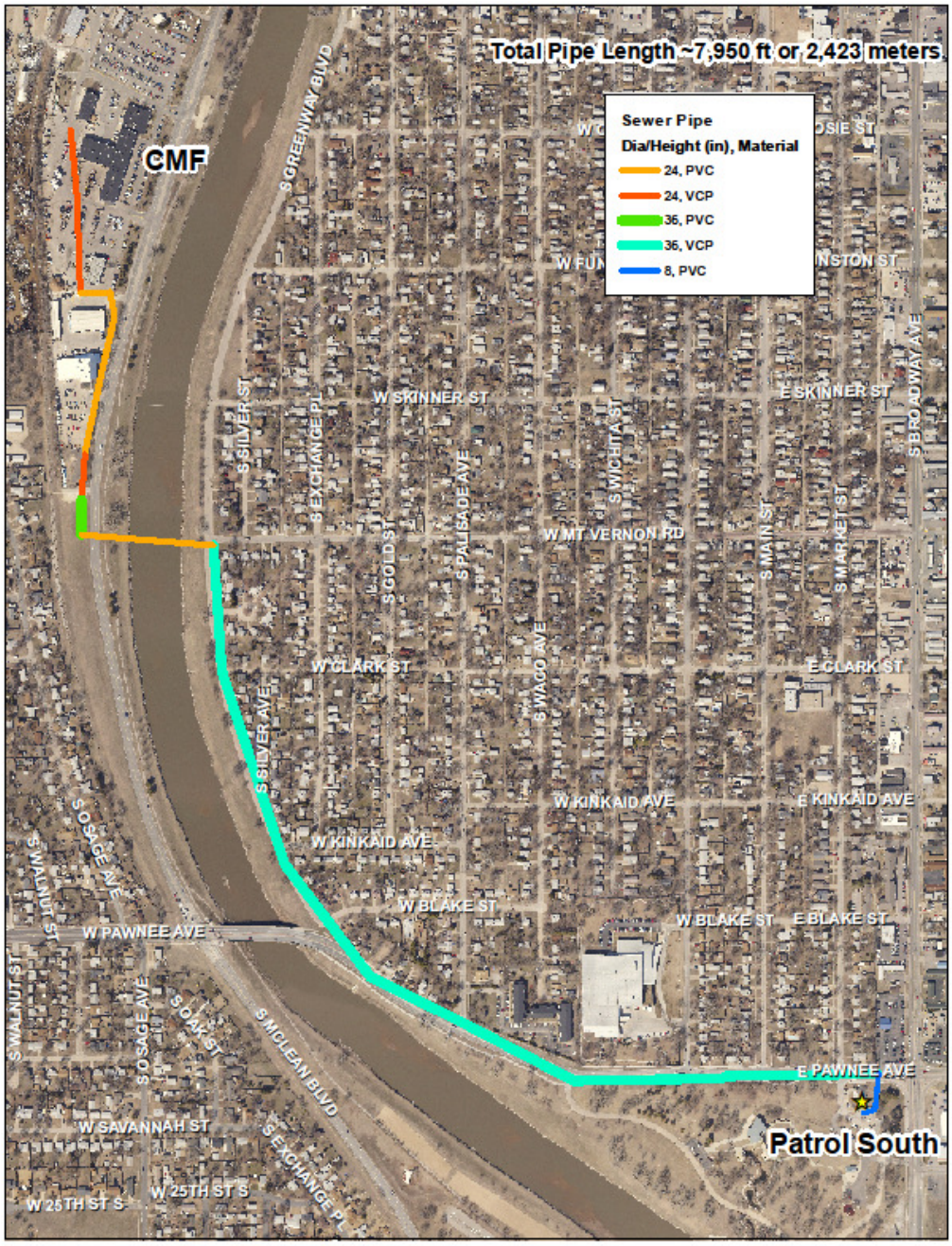
These “real life” findings have also been backed up by extensive independent CFD analysis and testing at the i3-Group R&D labs.

2.2 Proof of Concept Overview

The locations for the two sites being connected under this proposal are shown on the diagram below:



The City of Wichita Public Works Department has identified a potential route between the two sites utilizing the existing wastewater infrastructure; in total, some 7,950ft of existing wastewater infrastructure will be utilized in the construction of the fiber optic network:



The initial requirement is for the provision of 12 fibers between the two sites.

2.3 FOCUS™ Cable Selection

In order not to detract from the efficiency of the wastewater infrastructure being utilized, the FOCUS™ system only allows for a single cable to be deployed into each section of wastewater pipeline.

It is therefore best practice to select the highest fiber count cable possible, within the limits of the initial project budget, for the sections of wastewater pipeline being utilized. In doing so the network design allows for future requirements.

The following table provides details for the FOCUS™ cables that are currently available:

Fiber Count	Cable Diameter (U.S.)	Cable Diameter (metric)	Pipe Diameter (U.S.)	Pipe Diameter (metric)
24	0.6 inch	15.0mm	≥6 inch	≥150mm
48	0.6 inch	15.0mm	≥6 inch	≥150mm
72	0.6 inch	15.0mm	≥6 inch	≥150mm
144	0.6 inch	15.0mm	≥6 inch	≥150mm
312*	0.6 inch	15.0mm	≥6 inch	≥150mm
96	0.7 inch	18.0mm	≥7 inch	≥180mm
144	0.7 inch	18.0mm	≥7 inch	≥180mm
288	0.8 inch	20.0mm	≥8 inch	≥200mm
432	0.8 inch	20.0mm	≥8 inch	≥200mm

** Currently being developed.*

2.4 Implementation Overview

Only i3-Group approved and accredited engineers can install the FOCUS™ System.

Wastewater Asset Assessment Process

Prior to any detailed network design being completed it is essential to gain a proper and true understanding of the existing wastewater asset in respect to its suitability for use with the FOCUS™ system.

This activity is crucial to provide to the asset owner a level comfort, understanding and record of the structural and operational condition of the wastewater line and manholes with respect to their:

- Age
- Construction
- Diameter
- Depth
- Entry and exit access
- Composition

This activity has been completed by the City of Wichita Public Works Department and i3-Group, in line with standard operating procedures. It consisted of a review of the as built drawings and maintenance history for the asset as well as a physical survey of the route identified by the Public Works Department both visually and through the use of CCTV inspection footage.

The objectives of this activity were the identification of the following:

- Sections of the asset requiring cleaning / jetting prior to the installation of FOCUS™.
- Sections of the asset requiring repair work prior to the installation of FOCUS™.
- Location and measurements of any internal or external backdrops, so Rigid GRP Manifolds can be constructed and planned into the installation process.

The CCTV footage provided was reviewed by i3-Group and passed through our own quality control procedures. The general condition of the pipeline in each of the sections along the route is good and

no issues have been identified from the footage provided. However, due to the high surcharge levels in the majority of the sections provided, in some cases as high as 50%, it was not possible to view the condition of the invert of the pipeline where the FOCUS™ cable will be installed.

Therefore, to ensure that the FOCUS™ installation is completed correctly at the time of deployment this proposal is provided on the understanding that the City of Wichita Public Works Department will meet all points with the **Install Terms and Conditions**.

FOCUS™ Installation

Following extensive trials and product development, the FOCUS™ system installation utilizes a variety of fixing methods, all of which have been carefully selected to ensure they perform within the aggressive environment that is encountered within wastewater systems. These include the use of high grade stainless steel clamps, low odor / eco friendly underwater resins and PVC NBR (Nitrile Butadiene Rubber) manifolds.

Using a loose lay method, the fiber optic cable is installed in the invert and fixed into place at pre-determined locations, i.e. every manhole it passes through, using the FOCUS™ manifolds, stainless steel fixings and underwater resin.

The specially designed manifolds have been extensively tested and researched to allow the flow of water and debris over them, without reducing the hydraulic flow or interfering with the free flow operation of the sewer. The manifold fits onto the cable and masks the shape of the cable, allowing the water to pass the cable entry or exit point with little interference.

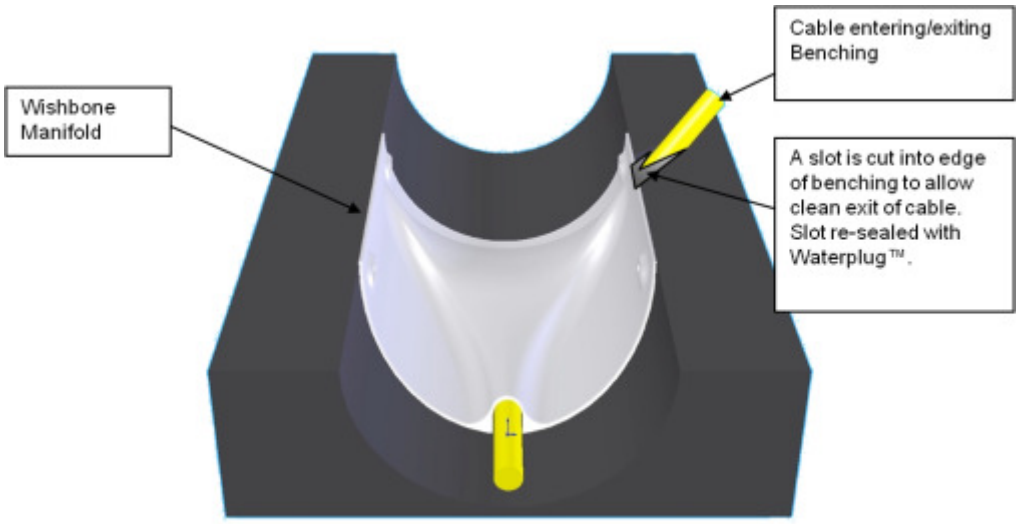
The manifolds allow the cable to be installed quicker, ensuring that the time within the confined space is reduced. The manifold design has been tested to ensure that it causes minimal disturbance on the sewer flow.

Benching Channel Preparation

At Entry / Exit manholes the channel must be prepared such that it allows the cable to exit through the side of the benching allowing for the bend radius of the cable. Preparation works will include cutting a slot into the side of the benching.

Manifold Fixing

The manifold is fixed into the channel using the underwater resin and stainless steel screws and washers at the leading and trailing edge corners, the holes for which are drilled using an air powered drill.



Once the manifold is secured over the cable a further coat of underwater resin is applied of the top of is sealing it completely.

All stages in the installation of the FOCUS™ system are to be undertaken by i3-Group certified personnel in accordance with the following i3-Group method statements, procedures and policies:

- 000-BO-MS-020 Manhole Coring/Ducting.
- 000-FS-MS-010 Installation of Cable within the Sewer (using FOCUS™ system manifolds).
- 000-BO-MS-040 Working in Confined Spaces or Local Equivalent.
- 000-HS-PR-050 Risk Assessment procedure or Local Equivalent.
- 000-HS-POL-002 Confined Spaces Policy or Local Equivalent.

On completion of the FOCUS™ installation a second CCTV survey is completed on a percentage of the deployed network to ensure the cable has been installed correctly. The percentage of the network to be reviewed by this second CCTV pass is to be agreed with the asset owner prior to the installation commencing.

2.5 Project Costing

432f FOCUS™ Cable

Item	Cost ($)
Site Survey , including Travel & Subsistence*	2,993.00
CCTV Survey (1st Pass) – Supplied by City of Wichita	0.00
Jetting (1st Pass) – Supplied by City of Wichita	0.00
CCTV Survey (2nd Pass) – Supplied by City of Wichita	0.00
FOCUS™ system installation –Materials & securing the cable*	33,429.16
Civils Element – Handhole construction, duct install, core drill, duct roping & cable pulling **	13,900.00
Fiber splicing & testing **	5,672.00
Travel & Subsistence, permits and visas, truck & equipment hire*	9,006.00
Network Total	**$ 65,000.16**

*i3-Group Engineer/s

**Local Contractor – Cablecom, Inc

River Crossing Contingency Plan

A $5000.00 contingency fund will be required in order to complete any additional Civils required to cross the river should the inverted siphon route prove not to be a viable option.

The contingency plan for crossing the river will involve installing a 1½ inch duct from the FOCUS™ breakout chambers on either side of the river down to the water's edge. The fiber optic cable will then be pulled through these ducts and laid at the bottom of the river bed. The high specific gravity of the cable will be enough for it to sink to the bottom of the river however, additional weights maybe required to keep it in place.

It may be possible to utilize the Storm Water run-offs to reduce the cost of the contingency plan however this will be subject to survey.

3. Project Timescales

i3 International has reserved resource and materials for this project and estimate it will be completed within 45 days of acceptance of this proposal, allowing for shipping times and customs clearance.

4. Install Terms and Conditions

This proposal is provided on the understanding that the City of Wichita agrees to the following terms and conditions:

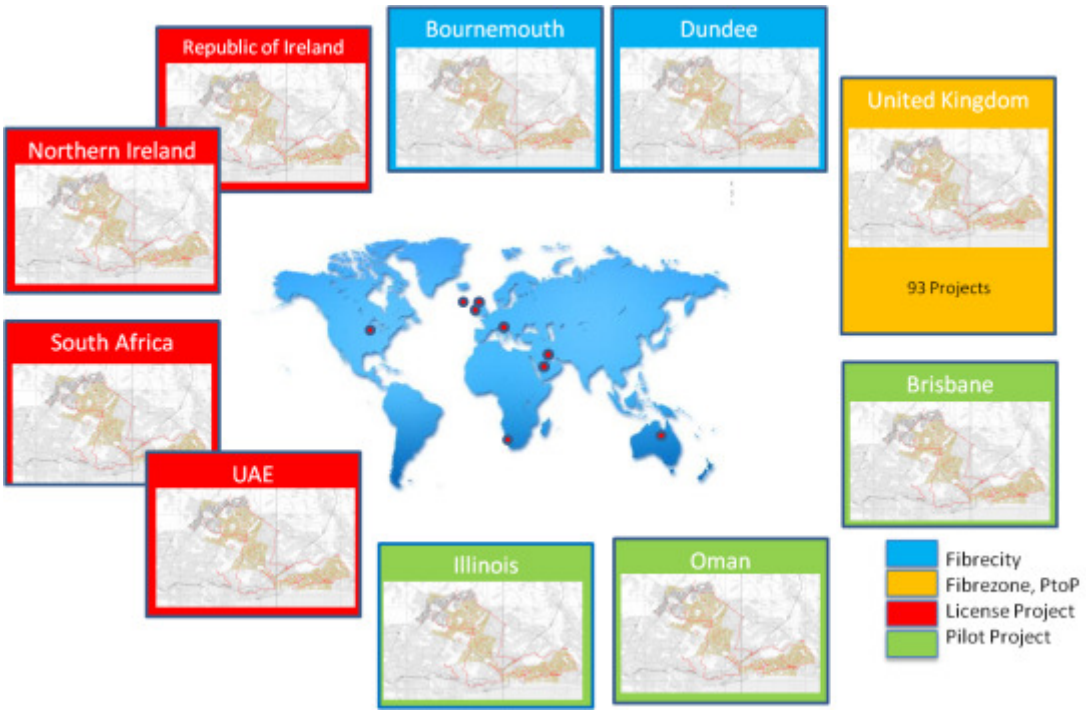
1. The Public Works Department will assist with the installation of the FOCUS™ system at no cost to i3 International:
    a. Provide the necessary Traffic Management and 110v generator and compressor required to complete the FOCUS™ installation; and
    b. Reduce the flow to an agreed level within each section prior to the installation of the FOCUS™ cable; and
    c. Make their CCTV unit available to check the condition of the invert once it is visible; and
    d. Make their jetting unit available to clear any debris / obstructions / silt indentified along each section by the CCTV unit; and
    e. Make their CCTV unit available to complete the post installation inspection prior to the flow being restarted.
2. City of Wichita to ensure that all necessary operating permits can be provided to i3 International Limited, a British company, which will be providing the services for this work.

5. Annexes

Annex I. References/Case Studies

i3 Global Deployments Overview

i3 Group has deployed solutions utilizing their in-house developed technologies on a worldwide basis. The company both utilizes its technologies for in-house led projects as well as licensing to partners on a global level. These projects introduce i3 technologies into Fibrecity™, Fibrezone™, Fiber-to-the-Home (FTTH) and Fiber-to-the-Mast (FTTM) network infrastructure builds:



United Kingdom & Northern Ireland - Over 100 projects completed and live within the UK and Eire territory (with some 500km of fiber deployed), including:

- City-wide Fibrezone™ connecting all municipal sites (schools, civic buildings etc), City of York
- Metropolitan fiber rings connecting major institutions within a city, e.g. Glasgow Hospitals & Health Service
- Point-to-point fiber connections for key facilities, e.g. University of Bath, Napier University
- Fibrecity™ deployments of FTTH, e.g. City of Bournemouth

Europe - In the Republic of Ireland, a project covering some 10km of fiber has been deployed and operated successfully, delivering services to a local municipality. Technology Partner and large scale projects under negotiation for PtP, FTTH and FTTM in various countries throughout Europe.

United States of America - An initial proof-of-concept system has been successfully deployed within the City of Quincy, Illinois for over 12 months.

Africa - Over 100km of fiber has been deployed in the Ethikwini province of South Africa (Durban). This is now moving to the next phase of c. 750km for the Ethikwini project later this year. Several other projects are at the negotiation stage providing PtP, FTTH and FTTM solutions.

Middle East - i3 technology has been selected by Haya Water in Oman for a large scale deployment to facilitate the new Haya Water Telecommunications Company infrastructure. The initial pilot scheme in Muscat commenced during August 2011. Some 500km has already been deployed in other projects within the middle-east region.

Asia-Pacific - An initial trial site has been successfully deployed and operated in Brisbane, Australia. Active negotiations are underway for a large scale deployment across the territory for FTTM and corporate/business connectivity. Discussions on i3 technologies are also underway in New Zealand for the forthcoming nation-wide broadband roll-out.

FOCUS TM Case Studies

Springfield Park, Durban	
Installed:	January 2009
Length:	1.2km
Pipe Size:	250mm – 400mm
Type:	Foul Sewer
Technology:	FOCUS™ System 72 core fiber cable, 18mm
Summary:	This line had a history of silting up regularly with the water company having to clean the line frequently. Following the FOCUS™ System install the silt issues have been drastically reduced with the cable having a positive effect on the hydraulic flow of the sewer.

Tongaat Estate, Durban	
Installed:	March 2010
Length:	800m
Pipe Size:	150mm – 225mm
Type:	Foul Sewer
Technology:	FOCUS™ System 72 core fiber cable, 18mm
Summary:	No issues highlighted to date. This live installation was used as the training assessment to level C for H_2O Africa (Partner)

Robert Gordon University, Aberdeen	
Installed:	December 2009
Length:	400m
Pipe Size:	Up to 600mm
Type:	Foul Sewer
Technology:	FOCUS™ System 72 core fiber cable, 18mm
Summary:	No issues highlighted to date.

Dundalk, Ireland	
Installed:	November 2009
Length:	4km
Pipe Size:	Up to 600mm
Type:	Foul Sewer
Technology:	FOCUS™ System 72 core fiber cable, 18mm
Summary:	No issues highlighted to date.

CITY OF WICHITA
City Council Meeting
January 10, 2012

TO: Mayor and City Council Members

SUBJECT: Surplus of City-owned Property at 1515, 1503, 1457 and 1405 South 119th Street West (District V)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the properties for sale.

Background: The City acquired 1515, 1503, 1457 and 1405 South 119th Street in conjunction with the project to improve 119th Street from Kellogg to Maple. The properties are all currently zoned residential and improved with single-family residences. The houses have been vacant since acquired in mid-2010. All the houses have a single story with a basement and attached two car garage.

Analysis: All City departments have been notified and have expressed no interest in the property. It is recommended that the property be placed on the City's "For Sale" list on the Internet, advertised and marketed to local real estate firms. The property will be offered for sale subject to the City's standard use restrictions including no casinos, car lots, adult entertainment, etc. If an offer is received that is deemed acceptable, it will be brought before the City Council for approval.

Financial Considerations: The City will receive cash consideration for the sale of the property, less any marketing costs. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

Goal Impact: The sale and redevelopment of this property will Support a Dynamic Core Area and Vibrant Neighborhood.

Legal Considerations: Contracts for sale are subject to approval as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council declare the property surplus and approve the marketing strategy described.

Attachments: Aerial.

Houses on South 119th Street

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
January 10, 2012

TO: Mayor and City Council

SUBJECT: Proposed 2012 Contracted Street Maintenance Program (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the Contracted Street Maintenance Program.

Background: Each year, funding is allocated in the City's budget for the contracted repair and maintenance of City streets. The Contracted Street Maintenance Program (CMP) provides for outsourced maintenance work, including concrete and asphalt pavement repair and reconstruction, curb and gutter repair and replacement, bridge deck repair and substructure painting, various asphalt surface treatments, crack sealing, and thermal crack repair. The CMP supplements the work done by City crews and is funded by the Street Maintenance ($6 million) and Capital Improvement Program (CIP) ($3 million) budgets.

Analysis: The City of Wichita is responsible for the maintenance of nearly 1,893 centerline miles (5,216 lane miles) of paved streets, and 91 miles of unpaved (dirt) streets. In addition, the City also maintains more than 350 vehicular bridges and 36 pedestrian bridges. The Department of Public Works & Utilities utilizes a computerized Pavement Management System (PMS) to assess street conditions throughout the City and prioritize needed repairs. Staff utilizes information from the PMS database, along with citizen input and CIP planning documents, to develop the maintenance program.

As proposed, the 2012 program will serve to maintain more than 70 lane miles of arterial streets, and more than 127 lane miles of residential streets. In addition, the program will address numerous other concerns, including conducting a City-wide street condition ratings inventory, developing a computerized pavement life cycle cost analysis model, replacing noncompliant wheelchair ramps to meet current Americans with Disabilities Act guidelines, and providing engineering construction administration and inspection.

The proposed CIP expenditures are contingent upon approval of the proposed 2011-2020 CIP. Subsequent to CIP approval, the department will separately request adoption of the requisite bonding resolution, and approval to expend the funds, as proposed.

Financial Considerations: Proposed expenditures for the 2012 CMP total $9,000,000. Funds totaling $6 million have been allocated to the program in the 2012-2013 adopted budget for Street Maintenance. The remaining $3 million is contingent upon approval of the proposed 2011-2020 CIP.

Goal Impact: The program addresses the Efficient Infrastructure goal by maintaining safe, traversable streets throughout Wichita.

Legal Considerations: The Law Department has approved the CMP Proposal s to form.

Recommendations/Actions: It is recommended that the City Council approve the 2012 Contracted Maintenance Program.

Attachment: 2012 Contracted Maintenance Program Overview.

CITY OF WICHITA

2012 Proposed Contracted Maintenance Program

Pavement Maintenance Definitions:

Cape Seal: A Cape Seal is a multiple surface treatment that consists of the application of an asphalt emulsion chip seal followed by the application of asphalt emulsion slurry seal.

Chip Seal: A thin film of heated asphalt emulsion is sprayed on the asphalt pavement surface, followed by the placement of small aggregates ("chips"). The chips are then compacted to orient the chips for maximum adherence to the asphalt.

Concrete Repair: Removal and replacement of deteriorating concrete pavement.

Crack Sealing: A sealant operation that addresses "working" cracks, or cracks that open and close with changes in temperature. Cracks are routed, cleaned and filled with a high quality elastomeric asphaltic compound. The treatment adds no structural benefit, but reduces or eliminates moisture infiltration through cracks, thus delaying or preventing the formation of potholes and other degradation.

Heater Scarification: An overlay in which the top surface of an existing asphalt roadway is heated and scarified to depth of one inch and overlaid at the same time with an inch of new hot mix asphalt pavement.

Micro Surfacing Seal: A high-performance surface seal in which a layer of relatively large aggregate, formulated polymer emulsion (as a binder) and mineral fillers is applied to the street.

Mill and Overlay: The existing asphalt surface is removed by grinding (milling) and a new 2" asphalt wearing surface is constructed.

Preservative Seal: An asphalt surface preservation treatment in which a rejuvenating solution is applied to the pavement to slow down weathering and extend the pavement life.

Rehabilitation: Full depth removal of deteriorated asphalt pavement, followed by subgrade stabilization and the construction of new asphalt pavement.

Slurry Seal: A basic surface sealing procedure in which a thin layer of fine graded aggregate, asphalt emulsion (as a binder) and mineral fillers is applied to the pavement.

Contracted Maintenance Program (CMP) Project Selection Process

Traditional

Locations to be addressed in the CMP have traditionally been determined using the following criteria:

1. **Pavement Condition Index (PCI)**

   Every street segment in the City is reviewed and assigned a PCI number. The PCI number is determined by evaluating each segment for various pavement distresses. The PCI ranges from 0 to 100, with a value of 75 being the targeted goal. Streets with PCIs below 70, and especially below 50 are considered first in the CMP. PCIs are also used as a guide to preventive maintenance, when funding allows. Preventive maintenance delays streets from dropping into a lower condition range and, as a result, requiring much more expensive repairs.

2. **Completion of locations previously identified**

   If repairs to streets previously scheduled were not able to be done or completed, they are typically included in the following year's CMP.

3. **Complaints and Requests**

   All complaints and requests concerning existing street conditions (from citizens, City officials, and maintenance personnel) are addressed either in-house, or through the CMP. Locations of concern are continually evaluated against other, scheduled projects, and included when warranted.

4. **Maintenance history and other, scheduled projects**

   If a particular street has required continued maintenance from City staff, or routine maintenance operations are no longer effective, it is considered for inclusion in the CMP. Streets that are scheduled to be repaired in other programs, such as the Capital Improvement Program (CIP), are not included in the CMP. Every effort is also made to work with utility companies and to coordinate work whenever possible.

Once the CMP funding level is established, the program is developed. Expenses not considered to benefit any single district (inspection costs, bridge work, bike paths, etc.) are deducted first. Using the criteria above, the remaining funds are applied equally to each of the City's six districts. Some districts, however, will have more locations or miles of streets addressed than others, due to the condition of the existing streets throughout the City, and the wide ranging costs for requisite repair.

New for 2012

In consideration of the additional $2 million in pavement maintenance funding tentatively allocated in the proposed 2011-2020 CIP, and as part of ongoing efforts to maximum the City's return on continued investment, several new concepts are proposed for exploration in 2012.

1. Increased Preventive Maintenance

While preventive maintenance has historically been programmed as funding allows, it is apparent that, to ensure maximum return on investment, preventive maintenance must be made a priority. Much like maintaining a functional roof over one's home, the cost to maintain a good road, in good condition, is far less than the cost to rehabilitate a failed one.

For example, crack sealing can extend the service life of a good pavement by 3-5 years, at a cost around $1/lf, whereas milling and overlaying a bad pavement may extend the service just 8-12 years, at a cost of $10-$15/sy. When applied to a hypothetical, quarter mile section of 4-lane arterial roadway (1 lane mile), with an assumed cracking rate of one full width (48 ft), transverse crack every 15', the total cost to crack seal the section at $1/lf would be $4,224. The total cost to mill and overlay the same section of roadway (7,040 sy) at a later date, assuming a midrange unit cost of $12/sy, would be $84,480. Assuming midrange service lives of 4 and 10 years, respectively, one finds that it costs just $1,056 to add one full year of service life by crack sealing, while the cost to add the same one year of service live via mill and overlay is eight times higher, at $8,448. Both figures are based on a lane mile.

Crack Sealing

Project Cost : $\frac{1320 \text{ lf}}{15 \frac{\text{lf}}{\text{crack}}}$ = 88 cracks x 48 lf = 4,224 lf x $\frac{\$1}{\text{lf}}$ = $4,224

Cost of Service Life : $4,224 x $\frac{1}{4 \text{ years of service}}$ = $\frac{\$1{,}056}{\text{year of service}}$

Mill & Overlaying

Project Cost : 1320 lf x 48 ft = 63,650 sf x $\frac{1 \text{ sy}}{9 \text{ sf}}$ = 7,040 sy x $\frac{\$12}{\text{sy}}$ = $84,480

Cost of Service Life : $84,480 x $\frac{1}{10 \text{ years of service}}$ = $\frac{\$8{,}448}{\text{year of service}}$

When you consider the City has an estimated 1,384 lane miles of asphalt streets in need of crack sealing, the difference of cost to add a year of life with crack sealing is $1,461,504 versus $11,692,032 with mill and overlay.

As such, a marked increase in preventive maintenance spending is proposed for 2012. As demonstrated in the following table, the proposed expenditures represent more than a 300% increase over 2011 and 2010 preventive maintenance spending levels.

Preventive Maintenance Expenditures

Year	Project	Expenditure	Lane Miles
2010	Micro Surfacing Seal	$826,000	21.05
	Total	$826,000	21.05
2011	Preservative Seal	$90,000	13.08
	Micro Surfacing Seal	$322,500	9.76
	Total	$412,500	22.84
2012	Preservative Seal	$384,680	54.89
	Crack Sealing	$500,000	50 (est.)
	Micro Surfacing Seal	$1,294,575	37.98
	Cape Seal	$506,840	9.38
	Total	$2,686,095	152.25 (est.)

2. Pavement Life Cycle Cost Analysis and Standardized Pavement Condition Ratings

The Public Works & Utilities' Maintenance Division has historically performed pavement condition assessment in general accordance with the methodology prescribed by the authors of its first Pavement Management System (PMS), which was purchased approximately 20 years ago. Since that time, however, the adoption of a new PMS (Lucity), turnover in the pavement condition assessment position, and efforts to make the resulting Pavement Condition Index more relatable, have resulted in a system more or less unique to the City of Wichita. While research suggests that such variation is common throughout the pavement maintenance industry, several packaged approaches are gaining acceptance, and offer the benefit of enhanced comparability among separate jurisdictions.

Further, ongoing economic pressures have proved the usefulness of the City's traditional Pavement Condition Index (PCI) somewhat limited. While the PCI serves to effectively measure network trending (better or worse), it does not, in and of itself, afford an objective means of characterizing streets as "failed", "deficient", "in need of repair", or the like. In order to do so, an approach other than PCI is needed.

In order to maximize ongoing investment, the Public Works & Utilities Department believes it will be better served by evaluating economic measures, rather than PCI alone. By modeling return on investment (ROI), network needs may be identified objectively, in terms of maximum

ROI, rather than based on a certain level of PCI. To be truly effective, however, the data within the model must be thorough, accurate, and reliably measured.

As such, the department recommends issuing a two-part RFP. The first component would include rating the City's entire street network using a standardized, reproducible methodology based on remaining service life. The second component would include development of a pavement life cycle model capable of evaluating alternative strategies and establishing 1.) the short and long term results of the department's existing strategy and budget, 2.) the strategy and budget required to maintain current condition and asset values, and 3.) the strategy and budget that results in the optimum ROI.

3. Pilot Projects

Several experimental (pilot) projects are proposed for 2012, and intended to test viability and acceptance of, potentially more cost effective, alternative maintenance techniques. The pilot projects vary, from the use of nontraditional (to the City of Wichita), but industry endorsed treatments, to use of longstanding treatments on different types of roads, as demonstrated below.

2012 Proposed Pilot Projects

Street	From	To	Class	District	Traditional Approach	Estimated Cost
Asphalt Overlay on Concrete Pavement - $192,382.23:						
Meridian	May	N of Pawnee	Arterial	4	Concrete Repair	$73,410.00
Grove	21st St	Raleigh	Collector	1	Concrete Repair	$55,255.56
Oliver	S of Pawnee	N of GWB	Arterial	3	Concrete Repair	$50,566.67
Clifton	Lincoln	Yale	Arterial	3	Concrete Repair	$13,150.00
Micro Surfacing Seal Project - $371,169.00:						
Hydraulic	Douglas	Central	Arterial	1	M & O	$65,920.00
Edgemoor	Central	9th St	Collector	1	M & O	$49,397.00
Edgemoor	10th St	13th St	Collector	1	M & O	$67,982.00
Edgemoor	Harry	Mt Vernon	Collector	3	Heater Scarification	$54,840.00
Meridian	S of McCormick	S of Harry	Arterial	4	M & O	$55,350.00
Meridian	S of Harry	May	Arterial	4	Concrete Repair	$77,680.00

2012 Proposed Pilot Projects (Continued)

Cape Seal Project - $506,839.78:						
Area of N of 21st St & E of Rock Rd			Residential	2	Micro Surfacing	$62,175.56
Birchwood	127th St E	Edgewood	Residential	2	Micro Surfacing	$42,840.00
Brookside	English	Ridgecrest	Residential	2	M & O	$24,568.89
Brookside	Douglas	English	Residential	2	M & O	$7,840.00
Courtleigh	Douglas	230' S of English	Residential	2	M & O	$22,587.11
Edgewood	127th St E	Woodridge	Residential	2	Micro Surfacing	$37,949.33
English	Brookside	Morningside	Residential	2	M & O	$20,960.00
Morningside	Douglas	English	Residential	2	M & O	$18,968.89
Oakwood Ct-102	Douglas	S End	Residential	2	Micro Surfacing	$6,844.44
K-15 (SB)	Pawnee	Canal	Arterial	3	M & O	$107,985.00
Minnesota	51st St S	Sunrise	Residential	3	Heater Scarification	$17,724.44
Sunrise	Kansas	Ash	Residential	3	Heater Scarification	$23,573.33
45th St S	Seneca	Gold	Residential	4	M & O	$34,733.33
Euclid	31st St S	32nd St S	Residential	4	M & O	$20,125.00
Meikle	Seneca	Oak	Residential	4	M & O	$31,933.33
Southland	Seneca	Oak	Residential	4	M & O	$26,031.11

Following evaluation of the pilot treatments and review of the life cycle modeling results, further enhancements will be made to the 2013 pavement preservation program.

2012 Contracted Maintenance Program Summary

2012 CMP Budget Overview

Proposed expenditures for the 2012 CMP total $9 million. Funds totaling $6 million have been allocated to the program in the 2012-2013 adopted budget for Street Maintenance. The remaining $3 million is contingent upon approval of the proposed 2011-2020 CIP.

2012 CMP Funding Summary

Total Contracted Maintenance General Funds	$6,000,000.00	
City-Wide Expenditures	Expenditures	Percentage
Engineering Salaries & Overhead	$500,000.00	8.33%
Preparatory Curb Gutter Repair and Wheel Chair Ramp Upgrades for Various Projects	$250,000.00	4.17%
Contingency	$100,000.00	1.67%
Total City-Wide:	$850,000.00	14.17%
City Council District Expenditures ($858,333.33 per District)	Expenditures	Percentage
Preservative Seal	$384,679.39	6.41%
Micro Surfacing Seal	$1,294,575.28	21.58%
Cape Seal	$506,839.78	8.45%
Thermal Crack Repair	$88,206.00	1.47%
Heater Scarification	$386,035.56	6.43%
Mill & Overlay or Overlay	$611,742.22	10.20%
Street Repair/Drainage Correction	$191,921.77	3.20%
Concrete Joints/Panels Repair	$1,686,000.00	28.10%
Total of Six City Council Districts:	$5,150,000.00	85.83%
Grand Total of Contracted Maintenance General Funds:	$6,000,000.00	100.00%
Total Contracted Maintenance CIP Funds	$3,000,000.00	
CIP Funds for City-Wide Contracted Maintenance Program	CIP	
Proposed Street Improvement Funds, 2011-2012 Draft CIP	$2,000,000.00	
Proposed Bridge Maintenance Funds, 2011-2012 Draft CIP	$500,000.00	
Traditional CIP Street Rehabilitation Funds	$300,000.00	
Traditional CIP KLINK Resurfacing Funds (KDOT Match)	$200,000.00	
Total Contracted Maintenance CIP Funds:	$3,000,000.00	

General Fund Summary

General Fund CMP Expenditures

City-Wide Projects	Total Square Yards	Total Cost	Arterial Lane Miles Maintained	Residential Lane Miles Maintained	Total Lane Miles Maintained
Engineering Salaries & Overhead	N/A	$450,000.00	N/A	N/A	N/A
Preparatory Curb Gutter Repair & Wheel Chair Ramp Upgrade	N/A	$200,000.00	N/A	N/A	N/A
Preventive Crack Seal & Contingency	N/A	$200,000.00	N/A	N/A	N/A
Total for City-Wide Projects	N/A	$850,000.00	N/A	N/A	N/A
Projects for Six Council Districts	**Total Square Yards**	**Total Cost**	**Arterial Lane Miles**	**Residential Lane Miles**	**Total Lane Miles**
Preservative Seal	386,439	$384,679.39	38.16	16.73	54.89
Micro Surfacing Seal	267,414	$1,294,575.28	5.68	32.30	37.98
Cape Seal	66,056	$506,839.78	2.68	6.70	9.38
Thermal Crack Repair	N/A	$88,206.00	N/A	N/A	N/A
Heater Scarification	40,859	$386,035.56	3.77	2.03	5.80
Mill & Overlay and Asphalt Overlay	73,853	$611,742.22	7.31	3.18	10.49
Street Repair/Drainage Correction	2,700	$191,921.77	0.00	0.38	0.38
Concrete Joints/Panels Repair	44,100	$1,686,000.00	1.79	4.47	6.26
Total for Projects for Six Districts	881,421	$5,150,000.00	59.39	65.79	125.18
Grand Total for General Funded CMP Projects	881,421	$6,000,000.00	59.39	65.79	125.18

Additional $2 million CIP Funding Summary

Contingent upon approval of the proposed 2011-2020 CIP, an additional $2 million will be allocated to contracted street maintenance.

Supplemental CIP Expenditures

Supplemental CIP Funded Projects	Total Square Yards	Total Cost	Total Lane Miles Maintained
Engineering Salaries & Overhead	N/A	$165,000.00	N/A
Heater Scarification (29th St N from Bramblewood to Longfellow)	19,889	$215,855.56	3.77
Mill & Overlay (29th St N from Rock to Longfellow and from Woodlawn to Bramblewood)	11,200	$126,800.00	2.12
Rehabilitation (27th St. S, from Meridian to Glenn)	9,000	$300,000.00	1.24
Concrete Joints/Panels Repair (Intersection of Southwest Blvd & West St; Rock Rd, from Kellogg to Grail)	3,800	$192,344.44	4.84
Residential Crack Seal (Various locations, City-wide)	N/A	$500,000.00	50.00
Subtotal	43,889	$1,500,000.00	61.97
Life Cycle Cost Analysis & Pavement Condition Ratings Study	N/A	$500,000.00	N/A
Grand Total for Supplemental CIP Funded Projects	43,889	$2,000,000	61.97

2012 CMP Proposed District Projects

District I

STREET	FROM	TO	PROJECT
Grove	21st St	Raleigh	Asphalt Overlay
13st St & I-135			Concrete Joints/Panels Repair
Battin	8th St	9th St	Concrete Joints/Panels Repair
Chautauqua	Murdock	8th St	Concrete Joints/Panels Repair
Gilbert	Poplar	Green	Concrete Joints/Panels Repair
Grove	12th St	13th St	Concrete Joints/Panels Repair
Harding	9th St	10th St	Concrete Joints/Panels Repair
Lorraine	Orme	Morris	Concrete Joints/Panels Repair
Murdock	Hillside	Erie	Concrete Joints/Panels Repair
Poplar	Morris	S to Pavement Change	Concrete Joints/Panels Repair
Main	Douglas	Dewey	Heater Scarification
Edgemoor	Central	9th St	Micro Surfacing Seal
Edgemoor	10th St	13th St	Micro Surfacing Seal
Hydraulic	Douglas	Central	Micro Surfacing Seal
Area of N of 45th St N & W of Hillside			Preservative Seal
27th St N	Hillside	Bluff	Preservative Seal
Grove	S of Murdock	12th St	Preservative Seal
Woodlawn	29th St N	S of K-96	Preservative Seal

District II

STREET	FROM	TO	PROJECT
Dalton	Pawnee	Parkmont	Asphalt Overlay
Dalton	Parkmont	Cherry Creek	Asphalt Overlay
Parkmont	Lori	150' E of Dalton	Asphalt Overlay
Area of N of 21st St & E of Rock Rd			Cape Seal
Birchwood	127th St E	Edgewood	Cape Seal
Brookside	Douglas	Ridgecrest	Cape Seal
Courtleigh	Douglas	230' S of English	Cape Seal
Edgewood	127th St E	Woodridge	Cape Seal
English	Brookside	Morningside	Cape Seal
Morningside	Douglas	English	Cape Seal
Oakwood Ct-102	Douglas	S End	Cape Seal
Edgemoor	N of Kellogg	Douglas	Heater Scarification
Area of N of Harry & E of Webb			Micro Surfacing Seal
Cottonwood	Woodlawn	Apache	Preservative Seal
Edgemoor	Douglas	Central	Preservative Seal
Rock	N of Kellogg	Central	Preservative Seal
Town East Mall Dr	Kellogg Dr (N)	Douglas	Preservative Seal
143rd St E	Kellogg	Harry	Thermal Crack Repair
Harry	127th St E	143rd St E	Thermal Crack Repair
Linden	Cherry Creek	150' E of Dalton	Thermal Crack Repair

District III

STREET	FROM	TO	PROJECT
Clifton	Lincoln	Yale	Asphalt Overlay
Oliver	S of Pawnee	N of GWB	Asphalt Overlay
K-15 (SB)	Pawnee	Canal	Cape Seal
Minnesota	51st St S	Sunrise	Cape Seal
Sunrise	Kansas	Ash	Cape Seal
Cheyenne	Pawnee	Clover	Concrete Joints/Panels Repair
Glen Oak	Cheyenne	Clover	Concrete Joints/Panels Repair
Hydraulic	MacArthur	Wassall	Concrete Joints/Panels Repair
Range	Wassall	Hillside	Concrete Joints/Panels Repair
Ross Parkway (EB)	W of Roosevelt	GWB Blvd	Concrete Joints/Panels Repair
Southfork	Range (W)	Range (E)	Concrete Joints/Panels Repair
Wassall	Spruce	Range	Concrete Joints/Panels Repair
Broadway & Skinner			Concrete Repair/Valley Gutter
Broadway & Funston			Concrete Repair/Valley Gutter
Edgemoor	Mt Vernon	Harry	Micro Surfacing Seal
Area of N of 55th St S & W of Hydraulic			Preservative Seal
55th St S	E of Broadway	Hydraulic	Preservative Seal
K-15 (SB)	Canal	South to KTA bridge	Preservative Seal
Woodlawn	Harry	KTA bridge	Preservative Seal
Woodlawn	Harry	Lincoln	Preservative Seal
71st St S	Cider	Rutan	Thermal Crack Repair
Cider	Grove	71st St S	Thermal Crack Repair
Grove	63rd St S	Cider	Thermal Crack Repair
Pershing	Kinkaid	Mt Vernon	Thermal Crack Repair

District IV

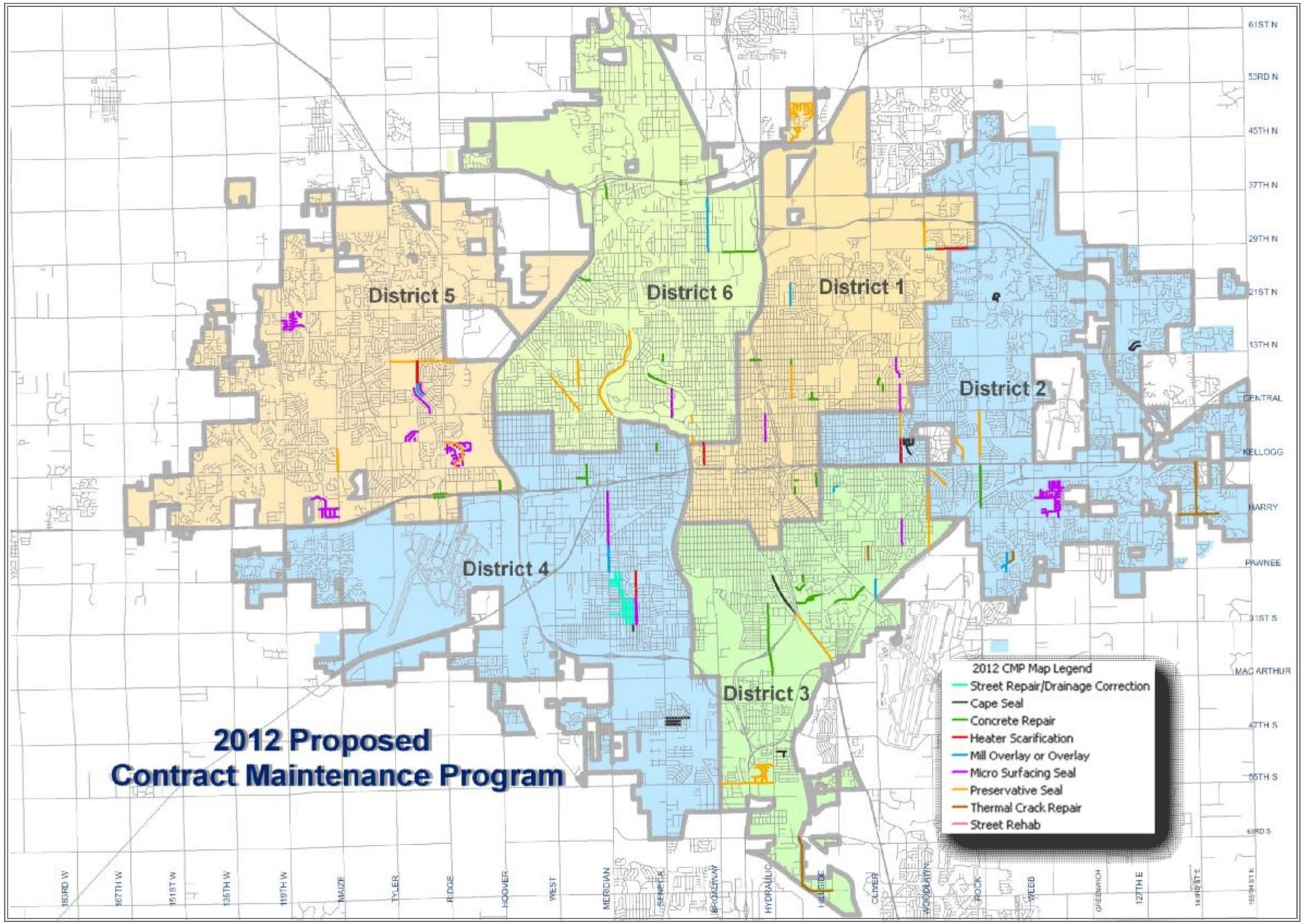
STREET	FROM	TO	PROJECT
Meridian	N of Pawnee	May	Asphalt Overlay
45th St S	Seneca	Gold	Cape Seal
Euclid	31st St S	32nd St S	Cape Seal
Meikle	Seneca	Oak	Cape Seal
Southland	Seneca	Oak	Cape Seal
Custer	Maple	S End	Concrete Joints/Panels Repair
Dodge	Douglas	300' North	Concrete Joints/Panels Repair
Taft	Custer	All Hallows	Concrete Joints/Panels Repair
Taft & Custer			Concrete Joints/Panels Repair
Glenn	27th St S	Pawnee	Heater Scarification
Glenn (E)	27th St S	31st St S	Micro Surfacing Seal
Glenn (W)	27th St S	31st St S	Micro Surfacing Seal
Meridian	May	McCormick	Micro Surfacing Seal
Area of E of Meridian & N of 31st St S			Street Repair/Drainage Correction

District V

STREET	FROM	TO	PROJECT
Hoover	Kellogg Dr (N)	Taft	Concrete Joints/Panels Repair
Kellogg Dr (N)	Ridge	E of Holland	Concrete Joints/Panels Repair
Kellogg Dr (S)	Ridge	E of Holland	Concrete Joints/Panels Repair
Country Acres	10th St	13th St	Heater Scarification
Area of N of 2nd St & E of Tyler			Micro Surfacing Seal
Area of N of Kellogg & W of Maize			Micro Surfacing Seal
Area of N of Maple & E of Ridge			Micro Surfacing Seal
Area of S of 21st St & E of 119th ST W			Micro Surfacing Seal
Brownthrush	Cottontail	N End/N of Birch	Micro Surfacing Seal
Denmark	School	10th St	Micro Surfacing Seal
Country Acres	School	10th St	Mill and Overlay
13th St	Maize	Tyler	Preservative Seal
Maize	Maple	North to Bridge	Preservative Seal
O'Neil	Willo-Esque	Ridge	Preservative Seal
Willo-Esque	Maple	O'Neil	Preservative Seal

District VI

STREET	FROM	TO	PROJECT
25th St N	I-235/Bridge	Bullinger	Concrete Joints/Panels Repair
29th St N	Hydraulic	St. Francis	Concrete Joints/Panels Repair
Arkansas	39th St N	S of 41st St N	Concrete Joints/Panels Repair
Halstead & Columbine			Concrete Joints/Panels Repair
Halstead & Manhattan			Concrete Joints/Panels Repair
Oak Park	11th St	230' E of Forest	Concrete Joints/Panels Repair
Salina	13th St	14th St	Concrete Joints/Panels Repair
Womer (NB)	800" S of 37th St N	I-235	Concrete Joints/Panels Repair
Nims	Central	W River Blvd at Bridge	Micro Surfacing Seal
Broadway	29th St N	100' N of 37th St N	Mill and Overlay
Douglas	Bridge	E of Waco	Preservative Seal
McLean	Central	North to Bridge/17th St	Preservative Seal
Sheridan	13th St	9th St	Preservative Seal
Waco	Douglas	1st St	Preservative Seal
Waco	3rd St	Central	Preservative Seal
Zoo Blvd	Central	West St	Preservative Seal


District 5
District 6
District 1
District 2
District 4
District 3
2012 Proposed
Contract Maintenance Program
2012 CMP Map Legend
Street Repair/Drainage Correction
Cape Seal
Concrete Repair
Heater Scarification
Mill Overlay or Overlay
Micro Surfacing Seal
Preservative Seal
Thermal Crack Repair
Street Rehab
61ST N
53RD N
45TH N
37TH N
29TH N
21ST N
13TH N
CENTRAL
KELLOGG
HARRY
PAWNEE
31ST S
MAC ARTHUR
47TH S
55TH S
63RD S
183RD W
167TH W
151ST W
135TH W
119TH W
MAIZE
TYLER
RIDGE
HOOVER
WEST
MERIDIAN
SENECA
BROADWAY
HYDRAULIC
HILLSIDE
OLIVER
WOODLAWN
ROCK
WEBB
GREENWICH
127TH E
143RD ST E
159TH ST E

CITY OF WICHITA
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Acquisition by Eminent Domain of Tracts Required for the I-235 Floodway Crossing/13th Street Interchange Project (Districts V and VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real properties.

Background: On March 1, 2011, the City Council approved the design concept to construct an interchange at I-235 and 13th Street North and associated street improvements. On May 24, 2011, the City Council approved funding to complete project design and provide funding for right-of-way acquisition. The improvements include relocating Hoover Road and developing a partial interchange for 13th Street North and I-235. The project will require the acquisition of all or part of 23 tracts.

Analysis: To date, agreement has been reached on 13 tracts. Due to the timing of the project, it is necessary to initiate eminent domain at this time. Staff will continue to negotiate with the owners as well continue to work to clear title issues. As agreements are reached or title is cleared, tracts will be deleted from the eminent domain action.

Financial Considerations: The cost of these acquisitions will be paid for with General Obligation Bonds.

Goal Impact: The acquisition of these parcels is necessary to ensure Efficient Infrastructure in a developed part of the City.

Legal Considerations: The Law Department has approved the resolution and ordinance as to form.

Recommendation/Action: It is recommended that the City Council adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District Court to accomplish such acquisitions.

Attachments: Tract list, condemnation resolution and condemnation ordinance.

PUBLISHED IN THE WICHITA EAGLE ON _____

RESOLUTION **NO.**_____

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE PLANNED CONSTRUCTION OF THE I-235 FLOODWAY CROSSING/13th STREET INTERCHANGE PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS;

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements for public right-of-way of the floodway crossing and interchange with 13th Street North and I-235 in the City of Wichita; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

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

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with construction of the I-235 floodway crossing/13th Street interchange project.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2012.

CITY OF WICHITA:

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

PUBLISHED IN THE WICHITA EAGLE ON

ORDINANCE NO._____

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF THE I-235 FLOODWAY CROSSING/13TH STREET INTERCHANGE PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

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

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the construction of the I-235 floodway crossing/13th Street interchange project in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

Commencing from the Northwest corner of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South, along the West line of said Quarter, a distance of 50.00 feet to the point of beginning; thence continuing South, along said West line, a distance of 190.00 feet; thence East, parallel with the North line of said Quarter, a distance of 745.00 feet; thence North, parallel with said West line, a distance of 190.00 feet to a point 50 feet South of said North line; thence West, parallel with said North line, a distance of 745.00 feet to the point of beginning, containing 3.250 acres (141,550.00 sq. ft.), more or less and

Beginning at the Northwest corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; FIRST COURSE, thence East, along the North line of said Lot 1, a distance of 15.86 feet; SECOND COURSE, thence Southwesterly for a distance of 143.40 feet to a point on the West line of said Lot 1; THIRD COURSE, thence

Northerly, along said West line, a distance of 141.86 feet to the point of beginning, containing 0.028 acres (1,210.56 sq. ft.), more or less. Together with all right of access to and from the abutting public roadway over and across said "SECOND COURSE" and

A tract of land as recorded in the Sedgwick County Register of Deeds Office on DOC.#/FLM-PG: 28607655 described as: Beginning at the most Northerly corner of Lot 1, Block 1, Miles Lakewood Living, an Addition to Wichita, Sedgwick County, Kansas; thence Southwest along the Westerly line of said Lot 1, 410.77 feet to a point on a curve; thence Southeast along said curve 36.64 feet; thence Southeast 42.07 feet to a point on a curve; thence Northeasterly along said curve 65.41 feet to the Easterly line of said Lot 1; thence Northeasterly 269.32 feet; thence North 100.75 feet to the point of beginning, containing 0.703 acres (30,634.75 sq. ft.), more or less.

Permanent easements for right of way, public utilities and related uses in and to the following-described tracts, to-wit:

The West 15 feet of the East 50 feet of the South 150 feet of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, containing 0.052 acres (2,250.01 sq. ft.), more or less and

The East 15 feet of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas, containing 0.086 acres (3,750.02 sq. ft.), more or less and

That part of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of Interstate Highway 235 as condemned in Case No. A-77197 and lying North of Ray Allen Addition to Wichita, Sedgwick County, Kansas, EXCEPT that part described as Commencing from the Northwest corner of Lot 1 of said Ray Allen Addition; thence East, along the North line of said Lot 1, a distance of 15.86 feet to the point of beginning; FIRST COURSE, thence continuing East, along said North line, a distance of 173.29 feet to a point 60 feet West of the East line of said Northeast Quarter; SECOND COURSE, thence North, parallel with said East line, a distance of 423.11 feet; THIRD COURSE, thence Southwesterly for a distance of 457.29 feet to the point of beginning, containing 1.871 acres (81,517.18 sq. ft.), more or less, exclusive of existing road rights of way of record. Together with all right of access to and from the abutting public roadway over and across said "THIRD COURSE" and

Beginning at the Southwest corner of Lot 12, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence on an assumed bearing of N 89°45'18"E, along the South line of said Lot 12, a distance of 30.07 feet to the P.C. of a non-tangent curve to the right; thence along said curve, having a chord bearing N 05°17'27"E, a chord distance of 200.78 feet, a radius of 2,790.00 feet, through a central angle of 4°07'27" for a distance of 200.82 feet to a point on the North line of the South 200 feet of said Lot 12; thence S 89°45'18"W, along said North line, a distance of 50.00 feet to the Northwest corner of said South 200 feet of Lot 12; thence South, along the West line of said Lot 12, a distance of 200.00 feet to the point of beginning, containing 0.185 acres (8,076.81 sq. ft.), more or less and

That part of Lot 11 and Lot 12, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, described as beginning at the Northwest corner of said Lot 11; thence on an

assumed bearing of N 89°45'18"E, along the North line of said Lot 11, a distance of 114.58 feet; thence S 10°27'18"W for a distance of 264.97 feet to the P.C. of a curve to the left; thence along said curve, having a chord bearing S 9°43'54"W, a chord distance of 70.71 feet, a radius of 2,800.00 feet, through a central angle of 1°26'49" for a distance of 70.71 feet; thence S 2°28'39" W for a distance of 105.12 feet to a point on the North line of the South 200 feet of said Lot 12; thence S 89°45'18"W, along said North line, a distance of 50.00 feet to the Northwest corner of said South 200 feet of Lot 12; thence North, along the West line of said Lot 12 and Lot 11, a distance of 435.00 feet to the point of beginning, containing .764 acres (33,264.73 sq. ft.), more or less and

Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas, EXCEPT that part described as beginning at the Northeast corner of said Lot 1; thence S 00°00'12"E, along the East line of said Lot 1, a distance of 660.00 feet to the Southeast corner of said Lot 1; thence S 89°45'18"W, along the South line of said Lot 1, a distance of 350.42 feet; thence N 10°27'18"E for a distance of 114.64 feet to the P.C. of a curve to the right; thence along said curve, having a radius of 1,150.00 feet, through a central angle of 25°17'59" for a distance of 507.80 feet to a point on the West line of said Lot 1, said point being the P.C. of a non-tangent curve to the right; thence along said West line and along said curve, having a chord bearing N 39° 37' 42" E, a chord distance of 110.65 feet, a radius of 2,694.93 feet, through a central angle of 2° 21' 09" for a distance of 110.65 feet to the Northwest corner of said Lot 1; thence N 89°45'18"E, along said North line, a distance of 61.35 feet to the point of beginning, containing .691 acres (30,110.97 sq. ft.), more or less.

Temporary construction easements for driveway, drainage and road construction in and to the following-described tracts, to-wit:

Commencing from the Southeast corner of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North, along the East line of said Quarter, a distance of 56.97 feet; thence West, perpendicular to said East line, a distance of 50 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 30 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 30 feet to the point of beginning, containing 0.003 acres (150.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 51.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 30 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 30 feet to the point of beginning, containing 0.003 acres (150.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 121.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 40 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East

line, a distance of 40 feet to the point of beginning, containing 0.005 acres (200.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 216.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 25 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 25 feet to the point of beginning, containing 0.003 acres (125.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas; thence S 89°45'18"W, along the South line of said Lot 1, a distance of 350.42 feet; thence N 10°27'18"E for a distance of 114.64 feet to the P.C. of a curve to the right; thence along said curve, having a radius of 1,150 feet, through a central angle of 4° 28' 33" for a distance of 89.83 feet to the point of beginning; thence continuing along said curve to the right, having a radius of 1,150.00 feet, through a central angle of 2° 08' 55" for a distance of 43.13 feet; thence S 72° 55' 14" E for a distance of 5.00 feet to the P.C. of a non-tangent curve to the left; thence along said curve, having a chord bearing S 16° 00' 18" W, a chord distance of 42.94 feet, a radius of 1,145 .00 feet, through a central angle of 2° 08' 55" for a distance of 42.94 feet; thence N 75° 04" 09" W for a distance of 5.00 feet to the point of beginning, containing 0.005 acres (215.16 sq. ft.), more or less and

Beginning at the Southeast corner of Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas; thence S 89° 45' 18" W, along the South line of said Lot 1, a distance of 11.76 feet; thence N 47° 00' 00" W for a distance of 154.54 feet; thence N 58° 55' 36" W for a distance o 76.68 feet; thence N 31° 04' 24" E for a distance of 30.00 feet; thence S 58° 55' 36" E for a distance of 79.82 feet; thence S 47° 00' 00" E for a distance of 145.78 feet to a point on the East line of said Lot 1: thence S 00° 00' 12" E, along said East lien a distance of 30.00 feet to the point of beginning, containing 0.161 acres (7,028.73 Sq. ft.) more or less and

Beginning at the Northeast corner of Lot 11, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence South, along the East line of said Lot 11, a distance of 30.00 feet; thence West, parallel with the North line of said Lot 11, 135.00 feet; thence North, parallel with said East line, a distance of 30.00 feet to a point on said North line; thence East, along said North line, a distance of 135 feet to the point of beginning, containing 0.093 acres (4,050.00 sq. ft.) more or less and

The South 15 feet of the East 145 feet of Lot 10, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, Except the East 10 feet thereof, containing .047 acres, (2,025.00 sq. ft.), more or less.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this _____ day of, _____ 2011.

CITY OF WICHITA

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

Floodway Crossing - I-235 and 13th Street North

Acquisition Status

Tract	Property Address	Tract Owner	Take Size	Type	Occupancy	Status
1		**BOCC of Sedgwick County**	**1299 RW, 1411 SSE & 1561**	**Park**	**Owner**	**Pending**
2		**Spinnaker Coves HOA**	**217 RW & 1050 TE**	**Residential**	**Owner**	**Acquired**
3	6225 W 13th	Terry & Rita Jones	FULL	Residential	Owner	
4	**6213 W 13th**	**Ray Frangenberg**	**23190 R/W**	**Residential**	**Rental**	**Acquired**
5	**6139 W 13th**	**Joe Frangenberg**	**FULL**	**Residential**	**Rental**	**Acquired**
6	1013 N Hoover	C&J LLC	2250 RW & 150 TE	Commercial	Owner	
7	1025 N Hoover	C&J LLC	4960 R/W & 475 TE	Commercial	Owner	
8		C&J LLC	81517 R/W	Commercial	Owner	
9		**Alfredo & Teresa Vasquez**	**1608 R/W & 250 TE**	**Residential**	**Owner**	**Acquired**
10	**1058 N Hoover**	**Kevin & Dorothy Kralicek**	**3300 R/W & 100 TE**	**Residential**	**Owner**	**Pending**
11		Berean Baptist Church	63,436 sf RW & 19,394 sf TE	Church	Owner	
12		W Wichita Missionary Baptist Church	inc above	Church	Owner	
13	1230 N Hoover	W Wichita Missionary Baptist Church	inc above	Church	Owner	
32		Berean Baptist Church	inc above	Church	Owner	
33		Berean Baptist Church	inc above	Church	Owner	
14		**Dale & Mildred Allen**	**6523 RW**	**Vacant Land**	**Owner**	**Acquired**
15	**1346 Curtis**	**Jim Fairchild**	**2897 RW & 125 TE**	**Vacant Land**	**Owner**	**Acquired**
16	**5223 W 13th St N**	**Mary Edwards et al**	**2354 R/W & 150 TE**	**Residential**	**Owner**	**Acquired**
17	**5217 W 13th St N**	**Laura St Housing Ventures**	**754 R/W & 105 TE**	**Residential**	**Rental**	**Pending**
18		**Sandpiper Bay HOA**	**17,7378 PE 1,325TE**	**Residential**	**Owner**	**Pending**
19		Dave Calvin	FULL	Vacant Land	Owner	
20	**6601 W 13th St N**	**Mary L Gow**	**FULL**	**Residential**	**Owner**	**Pending**
30	**1433 N Ridge**	**D&M LLC**	**829.78 TE**	**Commercial**	**Owner**	**Acquired**

PUBLISHED IN THE WICHITA EAGLE ON JANUARY 24, 2012

ORDINANCE NO. 49-187

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PRIVATE PROPERTY, EASEMENTS AND RIGHT-OF-WAY THEREIN, FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR THE CONSTRUCTION OF THE I-235 FLOODWAY CROSSING/13TH STREET INTERCHANGE PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS; DESIGNATING THE LANDS REQUIRED FOR SUCH PURPOSES AND DIRECTING THE CITY ATTORNEY TO FILE A PETITION IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS, FOR ACQUISITION OF THE LANDS AND EASEMENTS THEREIN TAKEN AND PROVIDING FOR PAYMENT OF THE COST THEREOF.

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

SECTION 1. That it be and is hereby declared to be a public necessity to acquire by eminent domain proceedings for the purpose of public right-of-way for the development of infrastructure associated with the construction of the I-235 floodway crossing/13th Street interchange project in the City of Wichita, Sedgwick County, Kansas, the lands and easements hereinafter described in Section 2.

SECTION 2. That the description of the lands and title therein necessary for the purpose of such action is as follows:

Clear and complete title for the uses and purposes herein set forth in and to the following-described tracts, to-wit:

Commencing from the Northwest corner of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South, along the West line of said Quarter, a distance of 50.00 feet to the point of beginning; thence continuing South, along said West line, a distance of 190.00 feet; thence East, parallel with the North line of said Quarter, a distance of 745.00 feet; thence North, parallel with said West line, a distance of 190.00 feet to a point 50 feet South of said North line; thence West, parallel with said North line, a distance of 745.00 feet to the point of beginning, containing 3.250 acres (141,550.00 sq. ft.), more or less and

Beginning at the Northwest corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; FIRST COURSE, thence East, along the North line of said Lot 1, a distance of 15.86 feet; SECOND COURSE, thence Southwesterly for a distance of 143.40 feet to a point on the West line of said Lot 1; THIRD COURSE, thence

Northerly, along said West line, a distance of 141.86 feet to the point of beginning, containing 0.028 acres (1,210.56 sq. ft.), more or less. Together with all right of access to and from the abutting public roadway over and across said "SECOND COURSE" and

A tract of land as recorded in the Sedgwick County Register of Deeds Office on DOC.#/FLM-PG: 28607655 described as: Beginning at the most Northerly corner of Lot 1, Block 1, Miles Lakewood Living, an Addition to Wichita, Sedgwick County, Kansas; thence Southwest along the Westerly line of said Lot 1, 410.77 feet to a point on a curve; thence Southeast along said curve 36.64 feet; thence Southeast 42.07 feet to a point on a curve; thence Northeasterly along said curve 65.41 feet to the Easterly line of said Lot 1; thence Northeasterly 269.32 feet; thence North 100.75 feet to the point of beginning, containing 0.703 acres (30,634.75 sq. ft.), more or less.

Permanent easements for right of way, public utilities and related uses in and to the following-described tracts, to-wit:

The West 15 feet of the East 50 feet of the South 150 feet of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, containing 0.052 acres (2,250.01 sq. ft.), more or less and

The East 15 feet of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas, containing 0.086 acres (3,750.02 sq. ft.), more or less and

That part of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of Interstate Highway 235 as condemned in Case No. A-77197 and lying North of Ray Allen Addition to Wichita, Sedgwick County, Kansas, EXCEPT that part described as Commencing from the Northwest corner of Lot 1 of said Ray Allen Addition; thence East, along the North line of said Lot 1, a distance of 15.86 feet to the point of beginning; FIRST COURSE, thence continuing East, along said North line, a distance of 173.29 feet to a point 60 feet West of the East line of said Northeast Quarter; SECOND COURSE, thence North, parallel with said East line, a distance of 423.11 feet; THIRD COURSE, thence Southwesterly for a distance of 457.29 feet to the point of beginning, containing 1.871 acres (81,517.18 sq. ft.), more or less, exclusive of existing road rights of way of record. Together with all right of access to and from the abutting public roadway over and across said "THIRD COURSE" and

Beginning at the Southwest corner of Lot 12, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence on an assumed bearing of N 89°45'18"E, along the South line of said Lot 12, a distance of 30.07 feet to the P.C. of a non-tangent curve to the right; thence along said curve, having a chord bearing N 05°17'27"E, a chord distance of 200.78 feet, a radius of 2,790.00 feet, through a central angle of 4°07'27" for a distance of 200.82 feet to a point on the North line of the South 200 feet of said Lot 12; thence S 89°45'18"W, along said North line, a distance of 50.00 feet to the Northwest corner of said South 200 feet of Lot 12; thence South, along the West line of said Lot 12, a distance of 200.00 feet to the point of beginning, containing 0.185 acres (8,076.81 sq. ft.), more or less and

That part of Lot 11 and Lot 12, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, described as beginning at the Northwest corner of said Lot 11; thence on an

assumed bearing of N 89°45’18”E, along the North line of said Lot 11, a distance of 114.58 feet; thence S 10°27’18”W for a distance of 264.97 feet to the P.C. of a curve to the left; thence along said curve, having a chord bearing S 9°43’54”W, a chord distance of 70.71 feet, a radius of 2,800.00 feet, through a central angle of 1°26’49” for a distance of 70.71 feet; thence S 2°28’39” W for a distance of 105.12 feet to a point on the North line of the South 200 feet of said Lot 12; thence S 89°45’18”W, along said North line, a distance of 50.00 feet to the Northwest corner of said South 200 feet of Lot 12; thence North, along the West line of said Lot 12 and Lot 11, a distance of 435.00 feet to the point of beginning, containing .764 acres (33,264.73 sq. ft.), more or less and

Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas, EXCEPT that part described as beginning at the Northeast corner of said Lot 1; thence S 00°00’12”E, along the East line of said Lot 1, a distance of 660.00 feet to the Southeast corner of said Lot 1; thence S 89°45’18”W, along the South line of said Lot 1, a distance of 350.42 feet; thence N 10°27’18”E for a distance of 114.64 feet to the P.C. of a curve to the right; thence along said curve, having a radius of 1,150.00 feet, through a central angle of 25°17’59” for a distance of 507.80 feet to a point on the West line of said Lot 1, said point being the P.C. of a non-tangent curve to the right; thence along said West line and along said curve, having a chord bearing N 39° 37’ 42” E, a chord distance of 110.65 feet, a radius of 2,694.93 feet, through a central angle of 2° 21’ 09” for a distance of 110.65 feet to the Northwest corner of said Lot 1; thence N 89°45’18”E, along said North line, a distance of 61.35 feet to the point of beginning, containing .691 acres (30,110.97 sq. ft.), more or less.

Temporary construction easements for driveway, drainage and road construction in and to the following-described tracts, to-wit:

Commencing from the Southeast corner of the Northeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North, along the East line of said Quarter, a distance of 56.97 feet; thence West, perpendicular to said East line, a distance of 50 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 30 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 30 feet to the point of beginning, containing 0.003 acres (150.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 51.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 30 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 30 feet to the point of beginning, containing 0.003 acres (150.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 121.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 40 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East

line, a distance of 40 feet to the point of beginning, containing 0.005 acres (200.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Ray Allen Addition to Wichita, Sedgwick County, Kansas; thence North, along the East line of said Lot 1, a distance of 216.86 feet; thence West, perpendicular to said East line, a distance of 15 feet to the point of beginning; thence continuing West, perpendicular to said East line, a distance of 5 feet; thence North, parallel with said East line, a distance of 25 feet; thence East, perpendicular to said East line, a distance of 5 feet; thence South, parallel with said East line, a distance of 25 feet to the point of beginning, containing 0.003 acres (125.00 sq. ft.), more or less and

Commencing from the Southeast corner of Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas; thence S 89°45'18"W, along the South line of said Lot 1, a distance of 350.42 feet; thence N 10°27'18"E for a distance of 114.64 feet to the P.C. of a curve to the right; thence along said curve, having a radius of 1,150 feet, through a central angle of 4° 28' 33" for a distance of 89.83 feet to the point of beginning; thence continuing along said curve to the right, having a radius of 1,150.00 feet, through a central angle of 2° 08' 55" for a distance of 43.13 feet; thence S 72° 55' 14" E for a distance of 5.00 feet to the P.C. of a non-tangent curve to the left; thence along said curve, having a chord bearing S 16° 00' 18" W, a chord distance of 42.94 feet, a radius of 1,145 .00 feet, through a central angle of 2° 08' 55" for a distance of 42.94 feet; thence N 75° 04" 09" W for a distance of 5.00 feet to the point of beginning, containing 0.005 acres (215.16 sq. ft.), more or less and

Beginning at the Southeast corner of Lot 1, Heartland Baptist Addition to Wichita, Sedgwick County, Kansas; thence S 89° 45' 18" W, along the South line of said Lot 1, a distance of 11.76 feet; thence N 47° 00' 00" W for a distance of 154.54 feet; thence N 58° 55' 36" W for a distance o 76.68 feet; thence N 31° 04' 24" E for a distance of 30.00 feet; thence S 58° 55' 36" E for a distance of 79.82 feet; thence S 47° 00' 00" E for a distance of 145.78 feet to a point on the East line of said Lot 1: thence S 00° 00' 12" E, along said East lien a distance of 30.00 feet to the point of beginning, containing 0.161 acres (7,028.73 Sq. ft.) more or less and

Beginning at the Northeast corner of Lot 11, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas; thence South, along the East line of said Lot 11, a distance of 30.00 feet; thence West, parallel with the North line of said Lot 11, 135.00 feet; thence North, parallel with said East line, a distance of 30.00 feet to a point on said North line; thence East, along said North line, a distance of 135 feet to the point of beginning, containing 0.093 acres (4,050.00 sq. ft.) more or less and

The South 15 feet of the East 145 feet of Lot 10, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas, Except the East 10 feet thereof, containing .047 acres, (2,025.00 sq. ft.), more or less.

SECTION 3. That the City Attorney is hereby authorized and directed to commence proceedings in eminent domain in the District Court of Sedgwick County, Kansas, for the appropriation of said lands and determination of the compensation to be awarded for the taking thereof.

SECTION 4. That the costs of said acquisition when ascertained shall be paid from General Obligation Bonds to be issued for the costs of such improvements; PROVIDED, however, should the City of Wichita acquire said property (and said City hereby reserves its right to abandon the condemnation as to any of all tracts) that General Funds are available for said purpose as provided by law.

SECTION 5. That the costs of said acquisition shall be charged to the City of Wichita.

SECTION 6. That this Ordinance shall take effect and be in force from and after its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 24th day of, January 2012.

CITY OF WICHITA

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

PUBLISHED IN THE WICHITA EAGLE ON JANUARY 13, 2012 770005

RESOLUTION **NO**. 12-014

A RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING PRIVATE PROPERTY FOR THE USE OF THE CITY OF WICHITA IN CONNECTION WITH THE PLANNED CONSTRUCTION OF THE I-235 FLOODWAY CROSSING/13th STREET INTERCHANGE PROJECT IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS;

WHEREAS, the governing body has previously authorized the study and the preliminary design of certain improvements for public right-of-way of the floodway crossing and interchange with 13th Street North and I-235 in the City of Wichita; and

WHEREAS, such study and preliminary design has identified the need to acquire several parcels of private property in order to properly complete such improvements; and

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

SECTION 1. The governing body hereby declares it to be necessary to acquire certain private property in connection with construction of the I-235 floodway crossing/13th Street interchange project.

SECTION 2. The City Engineer is directed to make or cause to be made a survey and description of the lands and/or interests to be acquired and to have such survey and description filed with the City Clerk.

SECTION 3. That this Resolution shall take effect and be in force from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of January, 2012.

CITY OF WICHITA:

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Request for Proposals on Conducting a City-wide Street Condition Ratings Inventory and Developing a Pavement Life Cycle Cost Analysis Model (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the development and issuance of a Request for Proposals (RFP).

Background: The Public Works & Utilities' Maintenance Division has historically performed pavement condition assessment in general accordance with the methodology prescribed by the authors of its first Pavement Management System (PMS), which was purchased approximately 20 years ago. Since that time, however, numerous other management systems have entered the market, and various subtle changes have been made to the department's methodology, such that the current approach is now, more or less, unique to the City of Wichita. While research suggests that variation is common throughout the pavement maintenance industry, several packaged approaches are gaining acceptance, and offer the benefit of enhanced comparability among separate jurisdictions.

Further, ongoing economic pressures have proved the usefulness of the City's traditional PCI somewhat limited. While the PCI serves to effectively measure network trending (better or worse), it does not, in and of itself, afford an objective means of characterizing streets as "failed", "deficient", "in need of repair", or the like. In order to do so, an approach other than PCI is needed.

Analysis: In order to maximize ongoing investment, staff believes it will be better served by evaluating economic measures, rather than PCI alone. By modeling return on investment, network needs may be identified objectively, in terms of maximum return on investment, rather than based on a certain level of PCI. To be truly effective, however, the data within the model must be thorough, accurate, and reliably measured.

As such, the department recommends issuing a two-part RFP. The first component would include rating the City's entire street network using a standardized, reproducible methodology based on remaining service life. The second component would include development of a pavement life cycle model capable of evaluating alternative strategies and establishing 1.) the short and long term results of the department's existing strategy and budget, 2.) the strategy and budget required to maintain current condition and asset values, and 3.) the strategy and budget that results in the optimum return on investment.

Financial Considerations: It is estimated that the annual cost of the requested consulting services will not exceed $500,000. Sufficient funds are programmed for street improvements in the proposed 2011-2020 Capital Improvement Program.

Goal Impact: This project addresses the Efficient Infrastructure goal maintaining safe and dependable transportation systems.

Legal Considerations: The proposal to obtain an RFP has been reviewed and approved by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the development and issuance of the RFP's and direct staff to return to the City Council with a proposed agreement to retain the recommended consultant.

Attachment: None.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: Contract Amendment, The Salvation Army

INITIATED BY: Housing and Community Services

AGENDA: Consent

Recommendation: Approve the contract amendment and authorize the necessary signatures.

Background: The City of Wichita has entered into a funding agreement with the U.S. Department of Housing and Urban Development (HUD) for the execution of projects and activities under Title IV of the Steward B. McKinney-Vento Homeless Assistance Act for Emergency Shelter Grant (ESG) programs. On June 7, 2011, the Wichita City Council authorized a Contract Agreement with The Salvation Army to utilize ESG funds in the amount of $16,246 for the purpose of implementing an eligible emergency shelter project. The Contract Agreement identified two annual outcome measurements. The Salvation Army has subsequently modified the program model, and has identified additional outcome measures to be monitored.

Analysis: The Salvation Army has modified the program model to better meet the needs of the homeless in this community. The additional outcome measures provide a more comprehensive assessment of performance.

Financial Considerations: The financial terms specified in the Contract Agreement are unchanged.

Goal Impact: Services provided by this activity support the Dynamic Core Area and Vibrant Neighborhoods, Economic Vitality and Affordable Living and Quality of Life goals.

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

Recommendations/Actions: It is recommended that the City Council approve the contract amendment, and authorize the necessary signatures.

Attachments: Contract documents.

First Amendment to the
Contract Agreement between
The City of Wichita Housing and Community Services Department and
The Salvation Army

THIS CONTRACT AMENDMENT is executed this 10th day of January, 2012 by and between the City of Wichita Housing and Community Services Department (hereinafter called the City) and The Salvation Army, (hereinafter called the Subrecipient).

WITNESSETH THAT:

WHEREAS, on March 8, 2011 the Wichita City Council designated $125,133 from anticipated 2011-12 ESG funds for eligible activities; and

WHEREAS, on June 7, 2011 the City of Wichita allocated $16,246 in ESG funds for the execution of a Contract Agreement with The Salvation Army for implementation of the approved activity; and

WHEREAS, on the July 1, 2011, the above named entities were parties to a Contract Agreement with the caption as above set out and which details specific annual outcome measurements; and

WHEREAS, the above named parties now wish to modify and amend said Contract for the purposes of modifying the annual outcome measurements;

NOW, THEREFORE, the above named parties hereby agree, covenant and contract that the terms of the original contract dated the 1st day of July, 2011 are hereby reaffirmed and re-executed for and on behalf of these parties, except for the following clarifications, amendments, modifications and changes:

A. PART B. PERFORMANCE CRITERIA AND OBJECTIVES, Annual Outcome Measurements, is hereby amended to read as follows:

- 70% (119 of 170) of adult participants will begin to address their identified barriers through plan development, and 50% of those participants will improve their financial stability through goal completion.
- 75% (90 of 119) of adult participants will improve their stability by entering into the reintegration level (transitional housing) component to address their identified barriers which have caused them financial hardship.
- 70% (119 of 170) of adult participants will begin to address their identified daily living barriers through plan development, and 50% (60 of 119) of those participants will improve their daily living stability through goal completion.
- 75% (90 of 119) of adult participants will improve their stability by entering the reintegration level (transitional housing) component to address their identified barriers which have interfered with their daily living.
- 70% (119 of 170) of adult participants will begin to address their identified housing barriers through plan development, and 50% of those (60 of 119) will improve their housing stability through goal completion.
- 75% (90 of 119) participants will improve their stability by entering the reintegration level (transitional housing) component to address their identified barriers which have caused them housing instability.

SUBRECIPIENT

Major Charles H. Smith,
The Salvation Army

CITY OF WICHITA

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
City of Wichita

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: 2012 Senior Wednesday Program - WATER Center (District III)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Authorize receipt of the WATER Center's portion of the Kansas Health Foundation Recognition Grant for the Senior Wednesday's program.

Background: Senior Wednesdays is a program that provides monthly events for active seniors in the Wichita community. The program directly impacts the health of senior adults by enhancing their quality of life through community involvement, lifelong learning and the opportunity to socialize with other senior adults. The WATER Center has hosted Senior Wednesdays since 2005 and has received funding for the program through a portion of a Kansas Health Foundation Recognition Grant since 2006. The WATER Center is part of a local, informal coalition of museums which provide monthly programming for the Senior Wednesdays.

Analysis: The Senior Wednesday's program has been funded by a Kansas Health Foundation Recognition Grant. Each year, a participating museum applies for the Senior Wednesday grant. When an award is received, the applicant museum then administers funding to the other participating museums. The grant for 2012 was submitted and will be managed in 2012 by the Kansas African American Museum. The grant money will be used to offset the marketing expenses associated with the program and to fund the program supplies and presentations of the ten museums, including the WATER Center, involved in presenting Senior Wednesday's programs.

Financial Considerations: The WATER Center has been awarded $1,810 for the 2012 Senior Wednesdays program from the Kansas Health Foundation Recognition Grant received by The Kansas African American Museum. There is no match required. By accepting the funding, the WATER Center agrees to:

- To use the grant monies toward Senior Wednesdays programming, and
- To make available, on request by the Kansas Health Foundation, all financial and other records relating to Senior Wednesdays.

Goal Impact: This grant addresses the Quality of Life goal by educating senior citizens on water pollution and conservation concepts to protect the City of Wichita's natural resources.

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

Recommendation/Action: It is recommended the City Council approve receipt of the grant award and authorize the necessary signatures.

Attachment: Kansas Health Foundation Recognition Grant Application, as submitted by The Kansas African American Museum, and subsequent Award Letter.

Important:

- **Make sure you complete the entire Recognition Grant application. Your grant application has not been submitted until you receive an e-mail from the Kansas Health Foundation confirming its receipt.**
- **Please be sure to save your application often, you will lose any unsaved data! Feel free to scroll through the application prior to filling out the data fields. You may also want to print out a blank application before you begin by selecting the "Printer Friendly Version" link above. Before completing this form, make sure you have read and thoroughly understand the guidelines and other links provided above.**

Please enter the name and e-mail address of the individual completing this application
Prisca Barnes prisca.barnes@tkaamuseum.org

How did you hear about the Recognition Grants program?
Previous applicant

Organization Name
As shown on IRS Form 990, 990-EZ or 990-N (e-Postcard)
The Kansas African American Museum

What is your organization's Tax ID Number (Not Required)
If your organization is a 501(c)(3), please provide your organization's Tax ID # if you know it, also referred to as an "Employer Identification Number" (EIN), in the following format: xx-xxxxxxx
*Note: Government entities, including subsidiaries and public educational institutions, **DO NOT** need to submit an EIN.*

ALERT 990-N Grantseekers: If funding is approved, organizations should be aware that the funds provided by the Kansas Health Foundation could potentially tip small organizations into Internal Revenue Service (IRS) private foundation status. Organizations should seek legal and/or accounting counsel before applying for a grant from the Kansas Health Foundation. For more information please see: www.irs.gov Publication 557/Private Foundations and Public Charities

Please place a check mark in the box below that best describes your organizations tax status:

501(c)(3) Organization
Yes

Government Entity
No

Church
(If you are a Church and are part of an IRS Group Ruling you will be required to attach a copy of your Group Ruling Letter at the end of the application)
No

Please supply the following information for the organization applying for the funds. The next page is reserved

for Project Director information, which may differ.

Address
601 N Water

City
Wichita

County
Sedgwick

State
The Kansas Health Foundation only funds organizations located in Kansas and/or the greater Kansas City area serving Kansans.
Therefore, if you select Missouri the organization must be located in either Jackson, Jasper or Newton county.
KS

Zip Code
67203

Phone Number
Please use the following format: (xxx) xxx-xxxx
(316) 262-7651

Extension

Fax
Please use the following format: (xxx) xxx-xxxx

Organization E-mail
prisca.barnes@tkaamuseum.org

Organization Web site

Have you received Recognition Grant funding in the past?
Please place a check mark in the box below for "yes" or leave blank for "no"
Yes

If yes, when:
Please estimate the most recent by using the calendar icon
11/15/2007

Project Information

Project Director/Contact Person for the Request:

Prefix
(Mr., Ms., Mrs., Dr., etc.)
Ms.

First Name
Prisca

Last Name

Barnes

Suffix
(M.D., Ph.D., Jr., etc.)
<None>

Position/Title
Executive Director

Organization Name
TKAAM

Address
601 N Water

City
Wichita

State
KS

Zip Code
67203

Phone
Please use the following format: (xxx) xxx-xxxx
(316) 262-7651

Extension

Fax
Please use the following format: (xxx) xxx-xxxx

E-mail
prisca.barnes@tkaamuseum.org

Project Title
Senior Wednesday

Project Start Date
01/01/2012

Project End Date
12/31/2012

Project Duration
In whole months, calculate the number of months between the project start date and end date given above
12

County(ies) served by the project
Please provide a listing of all the county(ies). Please be reminded that funds can only be used within the state of Kansas.
Sedgwick, Harvey, Reno, Sumner, Butler

Age group served by the project

Over 19

Project Questionnaire
Please answer all questions fully. Please try to be concise and not repetitive.

The questions below allow only a limited amount of space for text entry. Additional details can be provided in the "Project Description" on the next page.

What is the project purpose?
(Please limit to 100 words)
To foster lifelong learning and improved quality of life for people over age 55 by providing innovative educational programming and enhancing active lifestyles and socialization.

What is the target population of the project?
(Please limit to 50 words)
Active adults over age 55 living in the Wichita, Kansas area.

How many people will be served by the project?
(Please limit to 50 words)
Nearly 5000 seniors at all ten participating institutions combined.

What health problems or need of the target population does this project address? Why should it be addressed?
(Please limit to 100 words)
The Senior Wednesday project addresses the need for older adults to remain active mentally and physically in order to improve overall health and quality of life. Seniors with a sedentary and unstimulating lifestyle are more likely to develop some form of dementia, depression, and are at greater risk for chronic health problems. Senior Wednesday aims to address this problem through education and activity.

What will be the anticipated health improvements in the target population as a result of this project? Please be precise about the expected impact of this project.
(Please limit to 100 words)
The education and mental activity provided by Senior Wednesday programs help maintain cognitive functioning and may help prevent or slow the onset of Alzheimer's disease or other dementias. The social aspect of Senior Wednesday also helps prevent depression and the physical aspects of the programs improve the general health of the participants. Participants will notice an improved sense of well-being and mental acuity.

Project Budget

Total cost of this project
Enter the overall project budget dollar amount.
24,514

KANSAS HEALTH FOUNDATION BUDGET

How will the KANSAS HEALTH FOUNDATION REQUESTED funds be spent? Please provide details below:

Fill in only the boxes that apply to your project. For example: if your project does not include a consultant, leave that budget item dollar amount blank.

Personnel (Existing)

Dollar Amount

Fringe benefits (maximum 25% of salary)

Dollar Amount

Personnel (New)

Dollar Amount

Fringe benefits (maximum 25% of salary)

Dollar Amount

Consultant

Dollar Amount

Travel

Dollar Amount

Equipment

Dollar Amount

Supplies

Dollar Amount
18,514

Printing

Dollar Amount

Indirects (maximum 15% of salaries and fringe)

Dollar Amount (can only be included if personnel or fringe is requested in the budget)

If you have any other budgeted items that do not fall into the categories given above, please enter the name of the budget item followed by the dollar amount in the additional spaces provided below:

Budget Item
Advertising

Dollar Amount
6000

Budget Item

Dollar Amount

Budget Item

Dollar Amount

Budget Item

Dollar Amount

TOTAL AMOUNT REQUESTED FROM KANSAS HEALTH FOUNDATION
This number is found by adding up all the individual budget amounts above.
Note: The grant amount requested from the Kansas Health Foundation must not exceed $25,000.00
24,514

If your total project budget amount given at the top of this page exceeds the amount requested from the Kansas Health Foundation, have commitments from other funding sources been secured to cover the remaining costs?

Yes
Yes

No
No

If no, what are your plans for securing the additional funds needed to complete the project? If you are not successful in securing the additional funds needed to complete the project, is there a portion of the project you could complete using only Kansas Health Foundation Funds? Please explain: (Please limit to 100 words)

Project Budget Narrative

Project Budget Narrative

In the space provided, please explain budgeted items and how each contributes to the project. If new personnel are budgeted, please describe plans for financial sustainability. In addition, please address the following:

- If existing personnel are budgeted please describe if they are hourly or salaried, full or part time.
- If personnel is budgeted please describe why the additional funding is needed for personnel and how the position(s) will be sustained beyond the term of the project.
- Please explain how KHF funding will impact the project.
- Please explain how the project would be impacted if only partial funding was awarded.

(Please limit to 700 words)

The ten organizations of the Senior Wednesday Coalition respectfully request $24,514 from the Kansas Health Foundation. This Recognition Grant will be used to offer stimulating educational and social activities to people over age 55. The Senior Wednesday programs help ward off dementia, depression, and provide low-cost access to high-quality education for active seniors.

The bulk of the funding requested from the Kansas Health Foundation will be used toward programming, such as supplies for projects, speakers' honoraria, and other associated costs at each venue. The total amount will be divided among the ten institutions according to how many programs each will provide in 2012. There will be 94 Senior Wednesday programs in 2012; each program costs $181, for a total of $17,014. Below is a list outlining how the money will be allotted to each venue.

Institution # Programs Dollar Allocation
Wichita Art Museum 10 $ 1,810.00
WATER Center 10 $ 1,810.00
Sedgwick County Zoo 11 $ 1,991.00
Wichita Public Library 11 $ 1,991.00
Edwin A. Ulrich Museum of Art 11 $ 1,991.00
The Kansas African American Museum 11 $ 1,991.00
Wichita-Sedgwick County Historical Museum 11 $ 1,991.00
Exploration Place 11 $ 1,991.00
Great Plains Nature Center 4 $ 724.00
Old Cowtown Museum 4 $ 724.00

Total programs and cost 94 $17,014.00

An additional $1500 is included in the supplies budget line to cover costs associated with the end-of-year celebration for all Senior Wednesday participants. The celebration is held at one venue and all are invited to attend, share refreshments and learn about the following year's programs and any changes on the horizon. In the past, this celebration has been attended by 300 active seniors. The total amount requested for supplies is $18,514.

Because Senior Wednesday is a collaborative effort between ten non-profit organizations, aligning programming and publicity to support the mission is crucial. That is why a joint advertisement must be purchased to publicize all monthly programs. $5500 is requested to place monthly advertisements in Wichita's Active Aging publication. And additional $500 is needed to maintain and host the Senior Wednesday website.

If only partial funding was awarded, each organization would have to make difficult decisions about what part of each program to cut. Some organizations might start charging a fee to offset costs. It is crucial to the Senior Wednesday mission that the programs remain as low-cost as possible, so fees are intentionally low or nonexistent. The coalition goal is to increase attendance across the board, and if the project is not funded entirely, that becomes increasingly difficult to achieve.

Project Description

Project Description

In the space provided, please outline the anticipated results for your project and describe the activities planned to address the issue. Please describe how the proposed activities will compliment or coordinate rather than duplicate existing services or programs.
(Please limit to 700 words)

Kansas Health Foundation Dedicated to Improving the Health of All Kansans

December 1, 2011

Prisca Barnes
Executive Director
Kansas African American Museum, Inc.
601 N. Water Street
Wichita, KS 67203

RE: Grant #201101001-330

Dear Ms. Barnes:

On behalf of the Kansas Health Foundation Board of Directors, I am pleased to inform you that your Recognition Grant request to fund the "Senior Wednesday" project has been approved. The Kansas Health Foundation agrees to provide $24,514.00 to fund this project. A check for this amount is enclosed.

By accepting this grant and cashing the enclosed check, you specifically agree that:

(a) grant monies will be used as identified in your Recognition Grant application to the Kansas Health Foundation;
(b) all financial and other records relating to the Project will be made available on request (there are no reporting requirements on Recognition Grants);
(c) any sums not used for the purposes of the Project will be returned; and,
(d) this grant does not create a principal-agent relationship of any type.

As a Recognition Grant recipient, you are invited to attend the annual conference for grantees that will be held on April 3-4, 2012, at the Hyatt Regency Hotel in Wichita. The purpose of this two-day conference is to provide information and resources to support your efforts and allow you to connect with other non-profit organizations throughout the state. Included will be several skill-building workshops, with topics ranging from an overview of strategic communications planning, volunteer management, leadership, fund-raising and donor development, to board development. Additional information and registration materials will be sent to you in early January, but please mark your calendars now with the above dates.

309 East Douglas • Wichita, KS 67202-3405 • Tel 316-262-7676 • Tel 800-373-7681 • Fax 316-262-2044 • kansashealth.org

Please refer to the previously referenced grant number on all future correspondence regarding this grant. All questions or comments regarding your grant program or project content should be directed to Carolyn Williams, Kansas Health Foundation Program Officer at (800) 373-7681 or (316) 262-7676. A list of organizations that received funding during this cycle will be posted on our Web site at www.kansashealth.org on December 7, 2011. Finally, Chase Willhite, Kansas Health Foundation Communication Officer, will be your contact for coordination of any press coverage about this grant.

Sincerely,

Steve Coen
President & CEO

SC/gh

Enclosure

Second Reading Ordinances for January 10, 2012 (first read on December 20, 2011)

A. <u>21st and Maize Intersection Improvement.</u> (District V)

ORDINANCE NO. 49-176

An Ordinance amending Ordinance No. 48-807 of the City of Wichita, Kansas 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 improvement to said main trafficway; and setting forth the nature of said improvements the estimated costs thereof, and the manner of payment of the same.

B. <u>Management/Development Services for Wichita Ice Center</u> (District IV).

ORDINANCE NO. 49-179

An Ordinance of the City of Wichita, Kansas (the "City"), approving certain planned construction, approving and authorizing the execution of a professional management services and fitness center development agreement between the city and Genesis Health Clubs, LLC regarding management of the City's Ice Center facility and development of a fitness center therein, all pursuant to Charter Ordinance No. 203, and authorizing the issuance of general obligation bonds of the City to pay the costs thereof, and the issuance of temporary improvement notes of the City from time to time as funds are needed for such purposes.

C. <u>Amendments to Chapters 3.30 of the City Code relating to Entertainment Establishments.</u>

ORDINANCE NO. 49-177

An ordinance amending Sections 3.30.020, 3.30.060 and 3.30.070 of the code of the City of Wichita, Kansas, pertaining to the definition of entertainment establishments, the fees for licensing certain types of such establishments and the hours of operation thereof and repealing the originals of Sections 3.30.020 and 3.30.060 of the code of the City of Wichita, Kansas.

Agenda Item No. II-19

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: ZON2011-00034 – City zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3"); generally located north of 31st Street South, on the east side of Oliver Avenue .
(District III)

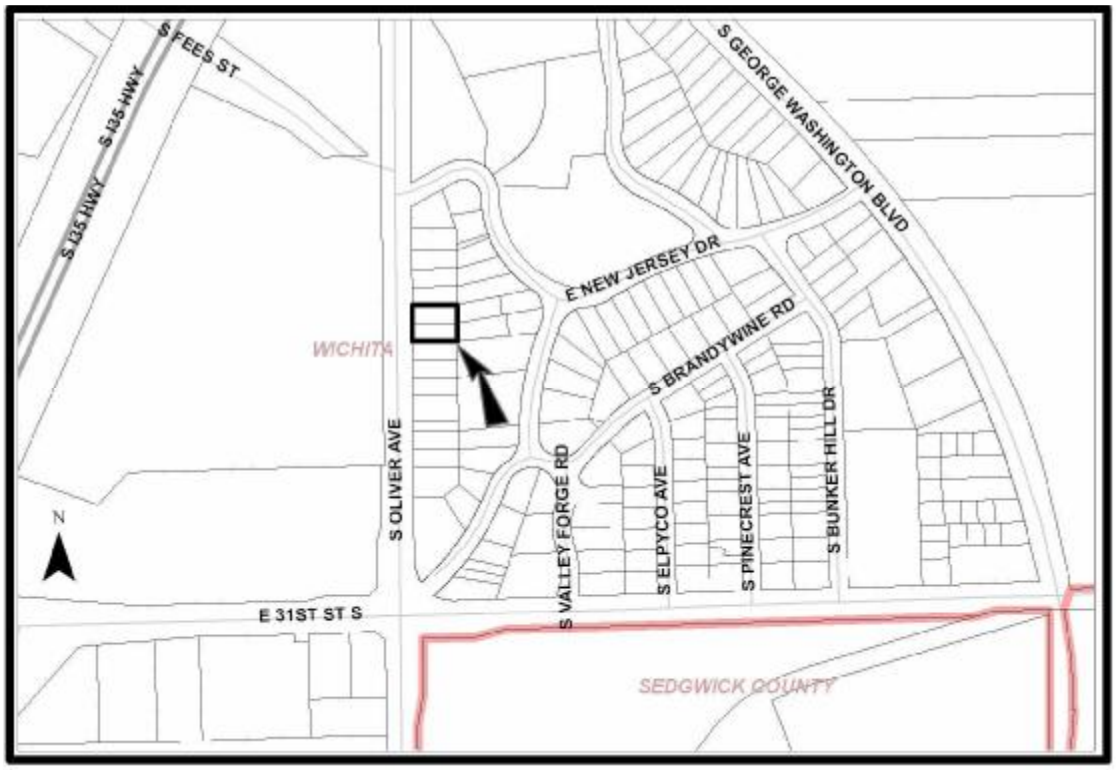
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) voted to approve the request (10-0).

DAB III Recommendation: District Advisory Board (DAB III) voted to approve the request (7-0).

MAPD Staff Recommendation: Approve



Background: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3") on the undeveloped Lots 27 and 28, Block H, Washington Heights Addition. A 1997 and subsequent aerials to the present shows the subject site to be undeveloped. The applicant proposes to build a duplex on each lot.

The site is located northeast of the 31st Street South – Oliver Avenue intersection, with its front yard facing Oliver. The SF-5 zoned property abutting the south side of the site is a nonconforming duplex (built 1950). Other properties located south and southeast of the site are SF-5 zoned single-family residences. There is a TF-3 and SF-5 zoned single-family residence (1950) abutting the north side of the site. Other properties located north and northeast of the site are MF-29 Multi-Family Residential ("MF-29") and B Multi-Family Residential ("B") zoned apartment complexes. The SF-5 zoned Planeview Public Park, with its ball fields, bike path and model aircraft fly area, is located west of the site, across Oliver, as is (further south) the SF-5 and LC Limited Commercial ("LC") zoned Wichita Regional Fire Training facility (CON2008-00068).

The area is dominated by the AFB Air Force Base District ("AFB") zoned McConnell Air Force base and the LI Limited Industrial ("LI") zoned Spirit – Boeing aircraft manufacturing companies, which is the largest aircraft manufacturing complex in the state. The site is also located in an Airport Hazard Zone A and the McConnell AOI Adjacent Critical Area of Interest ("AOI"). An Airport Hazard Zone is defined as "…an area of land or water where man-made structures, trees or use of land can obstruct the airspace required for the flight of aircraft landing and taking off at any airport, as regulated by Appendix H of Sedgwick County Code and Chapter 28.08 of the Code of the City of Wichita." Buildings located on land covered by an Airport Hazard Zone A designation are limited to 25 feet in height, unless a more detailed review is conducted and an increased height is approved. The AOI was entered on November 9, 2010, as a "Memorandum of Understanding" between McConnell, Sedgwick County, and the cities of Wichita and Derby. 'Municipal Responsibility,' of the Memorandum requires notification to the designated representative of McConnell of any amendment to the zoning regulations or to the comprehensive plan that impact the AOI. The notification was sent to McConnell and they approved the proposed TF-3 zoning.

Analysis: At the DAB III meeting held December 7, 2011, the DAB voted, 7-0, to recommend approval of the requested TF-3 zoning. No one was present at the DAB meeting to voice concerns on the requested zoning. At the MAPC meeting held December 8, 2011, the MAPC voted, 10-0, to approve the requested TF-3 zoning. The case was approved through a consent vote since no one was present to voice concerns on the requested zoning. No valid protests were received during the two week protest period.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application promotes Economic Vitality.

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

Recommendation/Actions:
(1) Adopt the findings of the MAPC and approve the zone change, authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required), or (2) Deny the zone change request (two-thirds majority vote required plus appropriate findings), or (3) Return the application to MAPC for further consideration (two-thirds majority vote required).

Attachments:

- Ordinance
- MAPC Minutes
- DAB Memo

OCA 150004

ORDINANCE NO. 49-188

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. ZON2011-00034

Zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3") on an approximately 18,000-square foot property described as:

Lots 27 and 28, Block H, Washington Heights Addition; generally located north of 31st Street South, on the east side of Oliver Avenue, 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.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorf, City Attorney

EXCERPT MINUTES OF THE DECEMBER 8, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2011-34 - Randal Woods (applicant/owner) requests a City zone change from SF-5 Single-Family Residential to TF-3 Two-Family Residential on property described as:

Lots 27 and 28, Block H, Washington Heights Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3") on the undeveloped Lots 27 and 28, Block H, Washington Heights Addition. A 1997 and subsequent aerials to the present shows the subject site to be undeveloped. The applicant proposes to build a duplex on each lot.

The site is located northeast of the 31st Street South – Oliver Avenue intersection, with its front yard facing Oliver. The SF-5 zoned property abutting the south side of the site is a nonconforming duplex (built 1950). Other properties located south and southeast of the site are SF-5 zoned single-family residences. There is a TF-3 and SF-5 zoned single-family residence (1950) abutting the north side of the site. Other properties located north and northeast of the site are MF-29 Multi-Family Residential ("MF-29") and B Multi-Family Residential ("B") zoned apartment complexes. The SF-5 zoned Planeview Public Park, with its ball fields, bike path and model aircraft fly area, is located west of the site, across Oliver, as is (further south) the SF-5 and LC Limited Commercial ("LC") zoned Wichita Regional Fire Training (CON2008-00068) facility.

The area is dominated by AFB Air Force Base District ("AFB") zoned McConnell Air Force base and the LI Limited Industrial ("LI") zoned Spirit – Boeing aircraft manufacturing companies, which is the largest aircraft manufacturing complex in the state. The site is also located in an Airport Hazard Zone A and the McConnell AOI Adjacent Critical Area of Interest ("AOI"). An Airport Hazard Zone is defined as "...an area of land or water where man-made structures, trees or use of land can obstruct the airspace required for the flight of aircraft landing and taking off at any airport, as regulated by Appendix H of Sedgwick County Code and Chapter 28.08 of the Code of the City of Wichita." Buildings located on land covered by the Zone A designation are limited to 25 feet in height, unless a more detailed review is conducted and an increased height is approved. The AOI was entered on November 9, 2010, as a "Memorandum of Understanding" between McConnell, Sedgwick County, and the cities of Wichita and Derby. 'Municipal Responsibility,' of the Memorandum requires notification to the designated representative of McConnell of any amendment to the zoning regulations or to the comprehensive plan that impact the AOI. Notification has been sent to McConnell.

CASE HISTORY: The Washington Heights Addition (27 and 28, Block H) was recorded with the Sedgwick County Register of Deeds January 8, 1936.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3, SF-5, MF-29, B	Single-family residence, apartments
SOUTH:	SF-5	Duplex, single-family residences
EAST:	B	Apartments
WEST:	SF-5, LC	Planeview Public Park, Wichita Regional Fire Training facility

PUBLIC SERVICES: The subject site is located on Oliver Avenue, a paved, four-lane arterial street, with a center turn lane. Traffic counts along the Oliver – 31st Street South intersection, range from 10,730

– 11,552 trips along Oliver, to 7,320 – 2,335 trips along 31st. The 2030 Transportation Plan shows no change to this portion of Oliver. All utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The "*2030 Wichita Functional Land Use Guide of the Comprehensive Plan*" (*2030 Plan*) designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as a tool to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning for the undeveloped lots (Lots 27 and 28, Block H, Washington Heights Addition) is not at odds with the *2030 Plan*, nor are the existing MF-29 and B zoned apartment complexes that are adjacent and abutting the site. There are existing TF-3 zoned duplexes in the area, but they are located two blocks east of the site.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the requested TF-3 Two-Family Residential zoning be APPROVED.

This recommendation is based on the following findings:

(1) The zoning, uses and character of the neighborhood: The site is located northeast of the 31st Street South – Oliver Avenue intersection, with its front yard facing Oliver. The SF-5 zoned property abutting the south side of the site is a nonconforming duplex (built 1950). Other properties located south and southeast of the site are SF-5 zoned single-family residences. There is a TF-3 and SF-5 zoned single-family residence (1940) abutting the north side of the site. Other properties located north and northeast of the site are MF-29 and B zoned apartment complexes. The SF-5 zoned Planeview Public Park, with its ball fields, bike path and model aircraft fly area, is located west of the site, across Oliver, as is (further south) the SF-5 and LC zoned Wichita Regional Fire Training (CON2008-00068) facility. The area is dominated by AFB zoned McConnell Air Force base and the LI zoned Spirit – Boeing aircraft manufacturing companies, which is the largest aircraft manufacturing complex in the state. The site is also located in an Airport Hazard Zone A and the McConnell AOI Adjacent Critical Area of Interest ("AOI").

(2) The suitability of the subject property for the uses to which it has been restricted: The SF-5 zoned site is not developed and the owner needs the requested TF-3 zoning to build a duplex on each lot; Lots 27 and 28, Block H, Washington Heights Addition. The close proximity of the site to the McConnell Air Force base and the Spirit – Boeing aircraft manufacturing companies and its facing the arterial Oliver Avenue has probably diminished its potential for single-family residential development. A 1997 and subsequent aerials to the present shows the subject site to be undeveloped.

(3) Extent to which removal of the restrictions will detrimentally affect nearby property: Typical concerns expressed by neighbors in regards to duplex development is declining property values of the neighborhood brought on by poor maintenance of what is typically

rental housing, i.e., the duplexes. Poor maintenance of rental property is not an absolute, nor is there any guarantee that a single-family residence will be maintained by its owner. There are also both multi-family zoned apartments (rentals) and TF-3 zoned duplexes (probably rentals) in the immediate area, thus the proposed TF-3 re-zoning of 18,000-square feet will probably have a minimal impact.

(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"* (*2030 Plan*) designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as a tool to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning for the undeveloped lots (27 and 28, Block H, Washington Heights Addition) is not at odds with the *2030 Plan*, nor are the MF-29 and B zoned apartment complexes that are adjacent and abutting the site. There are existing TF-3 zoned duplexes in the area, but they are located two blocks east of the site.

(5) Impact of the proposed development on community facilities: The impact on community facilities will be minimal.

BILL LONGNECKER, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

FOSTER moved, **KLAUSMEYER** seconded the motion, and it carried (10-0).

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC/Wichita City Council

FROM: Janet Johnson, Neighborhood Assistant, District III

SUBJECT: ZON2011-00034 request for a zone change from SF-5 Single-Family Residential to TF-3 Family Residential

DATE: Dec. 19, 2011

On Wednesday, Dec. 7, 2011, the District III Advisory Board considered a request for a zone change from SF-5 Single-Family Residential (SF-5) to TF-3 Two-Family Residential (TF-3) on the undeveloped Lots 27 and 28, Block H, Washington Heights Addition. The applicant proposes to build a duplex on each lot.

The staff recommendation was that the requested TF-3 Two-Family Residential zoning be approved. **DAB III voted 7-0 that the requested change be approved.**

Please review this information when **ZON2011-00034** is considered.

Agenda Item No. II-20

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: ZON2011-00035 – City zone change from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC") generally located south of I-235 and west of north Broadway (District VI)

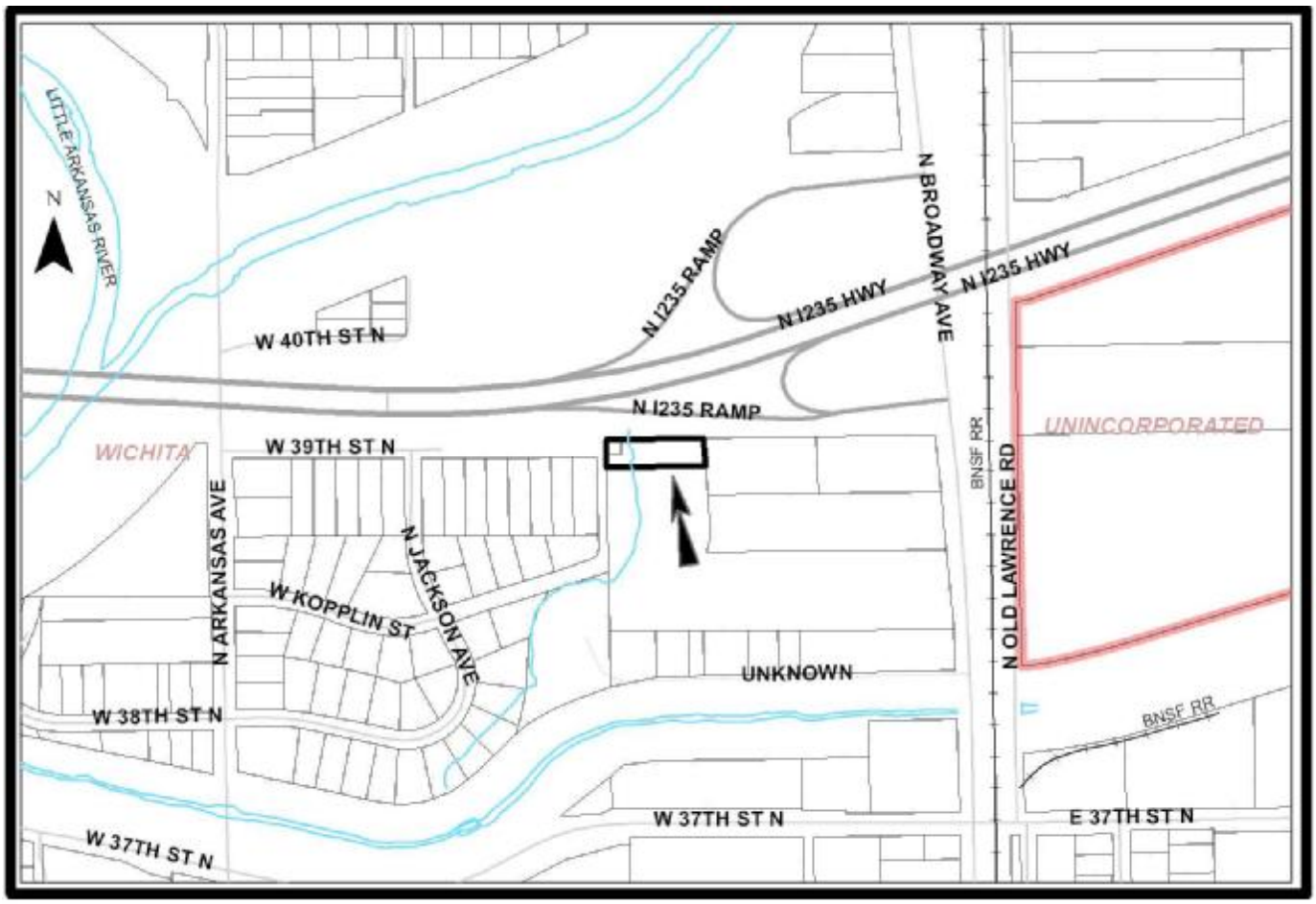
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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

DAB IV Recommendation: Approve, vote (8-0).

MAPD Staff Recommendation: Approve.



Background: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC") on a 0.80-acre unplatted tract of land located 800 feet west of Broadway, just south of I-235. The subject property is the west approximately 360 feet and north 100 feet of a larger parcel zoned GI General Industrial and SF-5 with frontage on Broadway. The applicant proposes to develop the site with an outdoor nursery, and to bring an existing non-conforming off-site sign up to conformance.

The applicant proposes to operate a landscaping and nursery business in this area, and be able to refurbish a currently non-conforming off-site sign. The subject site and property directly south and west of the subject is currently zoned SF-5, however; the likely hood of this area being developed with residential uses is low since the entire area is located within the Chisholm Creek 100 year floodplain. The property west of the subject site has been platted for residential development since the 1950's, yet out of the 30 or so lots that are within the floodplain, only three have been developed. With the location being in the floodplain, the property would likely not be suitable for residential development and buildings will not be allowed without a large amount of infill. With those deficiencies on this property, the applicant believes the area would be suitable for an outdoor nursery area which would not involve any structures. The area is currently overrun by wild vegetation and the development of an outdoor nursery would do little to change the current condition of the property, but make it more orderly. Access to the site would be from north Broadway, with the access being through properties currently owned by the applicant.

The applicant also proposes to bring a non-conforming off-site sign that currently exists on the property up to conformance through the rezone and special review process. Currently, the sign cannot be reconstructed or modified due to its non-conforming state, a regulation of the Kansas Department of Transportation. GC zoning would bring the sign into conformance and allow for the sign to be rebuilt or replaced in the future. The applicant's future plan is to move the sign east of its current location and reconstruct it with a single pole sign. As a part of this application, the sign code requires a Special Review Approval due to the sign being located within 300 feet of a residentially zone property on which a residential structure can be legally erected or to a residential structure, even though the nearest developed residential property is over 500 feet from the sign location. The Special Review Approval is needed in order for the sign to become a conforming off-site sign.

The surrounding area is characterized by a mixture of commercial, industrial and residential development. The commercial/industrial development is located to the east and south of the subject site and is zoned SF-5, GI General Industrial ("GI") and LI Limited Industrial ("LI"). To the west of the subject property, a couple single-family residences are scattered between undeveloped lots zoned SF-5. Further south is the Chisholm Creek Diversion drainage right-of-way.

Analysis: At the District VI Advisory Board meeting on Monday, December 5, 2011, the DAB voted 8-0 to approve the request. One person from the public spoke to express concerns over noise and pollution.

At the MAPC meeting held December 8, 2011, the MAPC voted on consent (10-0) to recommend approval of the request for GC zoning and the following protective overlay:

1. Permitted uses are those permitted by right in the SF-5 Single-family Residential ("SF-5") zone district plus "nurseries and garden centers," as allowed in the GC General Commercial ("GC").

2. The applicant will need to designate access to the subject site without crossing SF-5 zoned property before any building permits are to be issued (excluding sign permits).

No protests have been received during the subsequent two-week protest period.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application will promote Economic Vitality.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and protective overlay and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Attachments:

- Ordinance
- DAB Memo
- MAPC Minutes

OCA 150004

ORDINANCE NO. 49-189

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. ZON2011-00035

Zone change request from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC"), subject to platting within one year and a PO Protective Overlay on properties described as:

The North half of the Southeast Quarter of the Southeast Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT highway and EXCEPT a tract beginning at the West line of highway 81 and intersection of North line of Southeast Quarter of the Southeast Quarter, thence West to canal, thence Southwest to a point 401.9 feet South of the North half of the Southeast Quarter of the Southeast Quarter; thence East to highway; thence North to beginning; generally located south of I-235 and west of Broadway Street.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #261:

1. Permitted uses are those permitted by right in the SF-5 Single-family Residential ("SF-5") zone district plus "nurseries and garden centers," as allowed in the GC General Commercial ("GC").

2. The applicant will need to designate access to the subject site without crossing SF-5 zoned property before any building permits are to be issued (excluding sign permits).

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 24th day of January, 2012.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: City Council/MAPC Members

FROM: Janet Johnson, Neighborhood Assistant, covering for District VI Terri Dozal

SUBJECT: **ZON2011-00035** City zone change from SF-5 Single-Family to GC General Commercial with a Protective Overlay

DATE: Dec. 12, 2011

On Monday, December 5, 2011, the District IV Advisory Board considered a request for a: City zone change from SF-5 Single-Family to GC General Commercial with a Protective Overlay. The applicant wants to use the property as a tree nursery.

The DAB Members were provided the public notice and MAPD staff report for review.

The DAB members voted 8-0 to recommend approval, subject to the provisions of the protective overlay and prohibiting access from a residential street.

The DAB Members expressed the following concerns: 1) that other GC uses **NOT** be allowed at a later time; 2) and that access to the property **NOT** be allowed via any residential streets.

One member of the public expressed concerns over noise and pollution.

Please review this information when **ZON2011-00035** is considered.

EXCERPT MINUTES OF THE DECEMBER 8, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2011-35 – JMS Broadway, LLC; Zack Steven (Owner/Applicant), Less Eck (Owner/Applicant) and Ferris Consulting, Greg Ferris (Agent) request a City zone change from SF-5 Single-Family Residential to GC General Commercial with a Protective Overlay on property described as:

The North half of the Southeast Quarter of the Southeast Quarter of Section 29, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT highway and EXCEPT a tract beginning at the West line of highway 81 and intersection of North line of Southeast Quarter of the Southeast Quarter, thence West to canal, thence Southwest to a point 401.9 feet South of the North half of the Southeast Quarter of the Southeast Quarter; thence East to highway; thence North to beginning.

BACKGROUND: The applicant requests a zone change from SF-5 Single-family Residential ("SF-5") to GC General Commercial ("GC") on a 0.80-acre unplatted tract of land located 800 feet west of Broadway, just south of I-235. The subject property is the west approximately 360 feet and north 100 feet of a larger parcel zoned GI General Industrial and SF-5 with frontage on Broadway. The applicant proposes to develop the site with an outdoor nursery, and to bring an existing non-conforming off-site sign up to conformance.

The applicant proposes to operate a landscaping and nursery business in this area, and be able to refurbish a currently non-conforming off-site sign. The subject site and property directly south and west of the subject is currently zoned SF-5, however; the likely hood of this area being developed with residential uses is low since the entire area is located within the Chisholm Creek 100 year floodplain. The property west of the subject site has been platted for residential development since the 1950's, yet out of the 30 or so lots that are within the floodplain, only three have been developed. With the location being in the floodplain, the property would likely not be suitable for residential development and buildings will not be allowed without a large amount of infill. With those deficiencies on this property, the applicant believes the area would be suitable for an outdoor nursery area which would not involve any structures. The area is currently overrun by wild vegetation and the development of an outdoor nursery would do little to change the current condition of the property, but make it more orderly. Access to the site would be from north Broadway, with the access being through properties currently owned by the applicant.
The applicant also proposes to bring a non-conforming off-site sign that currently exists on the property up to conformance through the rezone and special review process. Currently, the sign cannot be reconstructed or modified due to its non-conforming state, a regulation of the Kansas Department of Transportation. GC zoning would bring the sign into conformance and allow for the sign to be rebuilt or replaced in the future. The applicant's future plan is to move the sign east of its current location and reconstruct it with a single pole sign. As a part of this application, the sign code requires a Special Review Approval due to the sign being located within 300 feet of a residentially zone property on which a residential structure can be legally erected or to a residential structure, even though the nearest developed residential property is over 500 feet from the sign location. The Special Review Approval would be needed in order for the sign to become a conforming off-site sign.

The surrounding area is characterized by a mixture of commercial, industrial and residential development. The commercial/industrial development is located to the east and south of the subject site and is zoned SF-5, GI and LI Limited Industrial ("LI"). To the west of the subject property, a couple single-family residences are scattered between undeveloped lots zoned SF-5. Further south is the Chisholm Creek Diversion drainage right-of-way.

CASE HISTORY: The property is currently unplatted. ZON2006-00005 was a denied rezone request to GI zoning, which included the remaining SF-5 zoned property south of the subject site. BZA2008-00037 was a sign code adjustment to allow for some alterations to an existing non-conforming off-site sign.

ADJACENT ZONING AND LAND USE:

NORTH:	None	I-235
SOUTH:	SF-5, LI	vacant, outdoor storage
EAST:	GI	vacant, convenience store
WEST:	SF-5	vacant

PUBLIC SERVICES: The site has access to Broadway, a four-lane arterial street with traffic volumes of approximately 16,000 vehicles per day at the intersection of east 37th Street and north Broadway. The site also has access to a dedicated, unimproved portion of Kopplin Street along the west property line. The site is currently served by municipal water service via an eight-inch main in the Broadway right-of-way. Municipal sewer service is not available to the subject property. There are currently no sewer lines in the general vicinity and there are no plans for sewer expansion into the area in the foreseeable future.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for "Urban Residential" use. Urban Residential is a category that 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

Abutting the east property line of the subject site is property classified as "Regional Commercial." This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay (P-O):

1. Permitted uses are those permitted by right in the SF-5 Single-family Residential ("SF-5") zone district plus "nurseries and garden centers," as allowed in the GC General Commercial ("GC").

2. The applicant will need to designate access to the subject site without crossing SF-5 zoned property before any building permits are to be issued (excluding sign permits).

The recommendation for the rezone to GC General Commercial ("GC") rezoning is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of commercial, industrial and residential development. The commercial/industrial development is located to the east and south of the subject site and is zoned SF-5, GI and LI Limited Industrial ("LI"). To the west of the subject property, single-family residences are

scattered between undeveloped lots zoned SF-5. Further south is the Chisholm Creek Diversion drainage right-of-way.

2. The suitability of the subject property for the uses to which it has been restricted: The site would be unsuitable for residential development due to the floodplain and the presence of industrial zoning and uses east and south of the subject site.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: There should be no negative impact on surrounding properties since the applicant plans on using the property as an outdoor nursery which is not much different from the vegetation that's there now.

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 the site as appropriate for "Urban Residential" use. Urban Residential is a category that 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

   Abutting the east property line of the subject site is property classified as "Regional Commercial." This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.

5. Impact of the proposed development on community facilities: Approval of the request should not have a negative impact on community facilities.

The recommendation for a Special Review Approval is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is undeveloped except for the existing non-conforming lighted off-site sign on site. There is GI zoning east of the subject site and I-235 is directly north of the site. The closet residence is over 500 feet from the existing sign.

2. The suitability of the subject property for the proposed off-site sign: There is an existing lighted off-site sign on the property and the property in each direction of the sign is vacant except for the highway frontage along the north property line.

3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The I-235 corridor is generally acceptable for off-site signs. The sign code for the City gives favored status to off-site signs along highways by allowing additional size and less required setback from residential property. There is a sign currently existing on the site so there should be no additional issues.

4. Opposition or support of neighborhood residents: At the time this report was prepared staff had not received any neighborhood comments regarding this application.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

FOSTER moved, **KLAUSMEYER** seconded the motion, and it carried (10-0).

Agenda Item No. II-21

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: ZON2011-00036 – City zone change from GC General Commercial ("GC") to SF-5 Single-family Residential ("SF-5") generally located northwest of the intersection of East 11the Street and North Ohio Street (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

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

DAB IV Recommendation: Approve, vote (9-0).

MAPD Staff Recommendation: Approve.

Background: The 0.15-acre tract, a part of HO Burleighs 3rd Addition, is located northwest of the intersection of North Ohio and East 11th Street. The subject site is currently zoned GC General Commercial ("GC") and the applicant is requesting a rezone to SF-5 Single-family Residential ("SF-5") for the development of a single-family residence. The site is currently undeveloped, and is within a residential neighborhood, surrounded by single-family residences. The current zoning of the property and surrounding uses make this site undesirable for uses that are allowed in the GC zone district.

All surrounding property is zoned SF-5, and are developed with single-family residences, except for the property east of the subject site, across North Ohio Street, which is developed with a church.

Analysis: At the District I Advisory Board meeting on Monday, December 5, 2011, the DAB voted 9-0 to approve the request. Concerns included; any impact on historical sites in the area, are all adjacent properties single-family residential and if the property would have a basement size the lot size is small.

At the MAPC meeting held December 8, 2011, the MAPC voted on consent (10-0) to recommend approval of the request for SF-5 zoning.

No protests have been received during the subsequent two-week protest period.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application will promote Economic Vitality.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Attachments:

- Ordinance
- DAB Memo
- MAPC Minutes

OCA 150004

ORDINANCE NO. 49-190

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. ZON2011-00036

Zone change request from GC General Commercial ("GC") to SF-5 Single-family Residential ("SF-5") on properties described as:

Lots 89 and 91, on Ohio Avenue, in H.O. Burleigh's Third Addition to the City of Wichita, Sedgwick County, Kansas; generally located northwest of the intersection of 11th Street and N. Ohio (1207 N. Ohio).

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 24th day of January, 2012.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Wichita City Council

MAPC Members

FROM: LaShonda Garnes, Neighborhood Assistant, District 1

SUBJECT: ZON2011-00036

DATE: December 21, 2011

On Monday, December 5th the District Advisory Board (DAB) for Council District 1 considered the request for a zoning change from General Commercial to Single-Family Residential at the property generally located northwest of the intersection of east 11th Street and north Ohio Street (1207 N. Ohio).

The Board members and citizens present had the following concerns:

- If the development had any impact on the historical sites in the area.
- If the adjacent properties were all single family residential.
- If the property would have a basement, since the lot size was small.

The applicant was present and stated that the reason for the zone change was to eliminate any issues for the buyer when trying to secure a loan. He noted that many banks will require that the zoning be changed from general commercial to single family for a home loan. So this step was being done to prevent any delays in selling the home.

DAB members voted 9-0 to recommend <u>approval</u> of this request.

Please review this information when this request is considered.

EXCERPT MINUTES OF THE DECEMBER 8, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2011-36 - Mennonite Housing, Lou Confessori (Owner/Applicant) requests a City zone change from GC General Commercial to SF-5 Single-Family Residential on property described as:

Lots 89 and 91, on Ohio Avenue, in H.O. Burleigh's Third Addition to the City of Wichita, Sedgwick County, Kansas.

BACKGROUND: The 0.15 acre tract, a part of HO Burleighs 3rd Addition, is located northwest of the intersection of north Ohio and east 11th Street. The subject site is currently zoned GC General Commercial ("GC") and the applicant is requesting a rezone to SF-5 Single-family Residential ("SF-5") for the development of a single-family residence. The site is currently undeveloped, and is within a residential neighborhood, surrounded by single-family residences. The current zoning of the property and surrounding uses make this site undesirable for uses that are allowed in the GC zone district.

All surrounding property is zoned SF-5, and are developed with single-family residences, except for the property east of the subject site, across north Ohio Street, which is developed with a church.

CASE HISTORY: The property is platted as HO Burleighs 3rd Addition recorded on March 10, 1887. The site is partially covered by the McClinton Grocery historical environs. The applicant will have to submit any information needed to Historical Preservation related to the requirements of the historical environs area.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residence
SOUTH:	SF-5	Single-family Residence
EAST:	SF-5	Church
WEST:	SF-5	Single-family Residence

PUBLIC SERVICES: The subject property has frontage along north Ohio Street (east side of property), a two-lane, paved local street without traffic counts. Fifty feet south of the subject site is east 11th Street, a two-lane, paved local street without traffic counts at the intersection of north Ohio and east 11th Street. 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 the site as appropriate for "Urban Residential" use. Urban Residential is a category that 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

RECOMMENDATION: Based upon 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: All surrounding property is zoned SF-5 and are developed with single-family residences, except for the property east of the subject site, across north Ohio Street, which is developed with a church.

2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned, but it would be more appropriate to downzone the site to a zoning district that is more reflective of the intended use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would decrease the density at which the site could be developed. There should not be any detrimental impacts to nearby property.

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 the site as appropriate for "Urban Residential" use. Urban Residential is a category that 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 (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The request is in conformance with adopted plans.

5. Impact of the proposed development on community facilities: Approval of the request should not have a negative impact on community facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

FOSTER moved, **KLAUSMEYER** seconded the motion, and it carried (10-0).

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: ZON2011-00037 Associated with CUP2011-00043 –City zone change from LC Limited Commercial to GC General Commercial ("GC") to allow for the expansion of manufacturing uses on Parcels 14 through 17 generally located south of University Drive and east of Emerson Street. (District V)

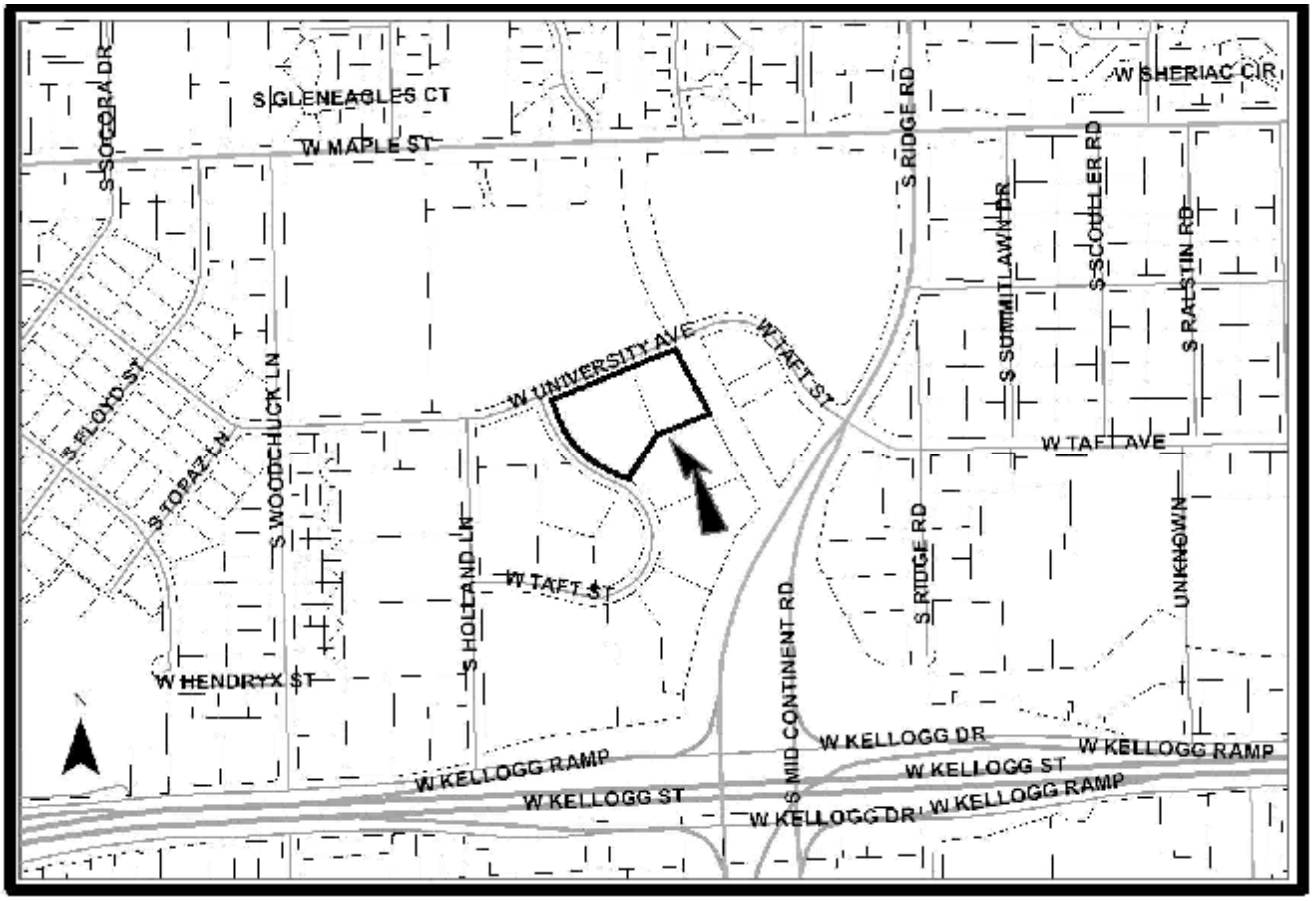
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approve subject to conditions (10-0).

MAPD Staff Recommendation: Approve subject to conditions.

DAB Recommendation: Approve subject to conditions (7-0).



Background: The applicant is proposing to amend DP-37 Ridge Plaza Community Unit Plan (CUP) and rezone Parcels 14 through 17 from LC Limited Commercial ("LC") to GC General Commercial ("GC"). The amendment would permit a wider range of manufacturing uses. Permitted uses would be: service and retail commercial, offices, financial institutions, medical offices and clinics, restaurants, private clubs, racquetball, tennis and health club facility and manufacturing. Parcel 14 permits theatres; Parcel 16 permits medical laboratories and Parcel 17 permits motor hotels. The new use for this amendment would be manufacturing. General manufacturing is first permitted in the GC zone district. A rezoning to "GC" would allow the requested use by-right. No other changes to the C.U.P. were requested by the amendment.

The property is located northwest of the interchange of Mid-Continent Road/Ridge Road and Kellogg. The closest land uses are: Pitney Bowes, CAP Carpet, Target and Slumberland Furniture Store. A drainage canal is the eastern boundary of the proposed site. Gallery Expressions and other home improvement stores are located east of the drainage canal, and west of Mid-Continent Road/Ridge Road. Three hotels, Comfort Suites, Value Place and Econo Lodge, and an office park with many small tenant spaces are located to the south and west. Kellogg is the southern boundary. No uses are visible on the other side of Kellogg, but land is held in large acreages associated with the airport. The parcels are on a main flight path to Wichita Mid-Continent Airport. Low flying aircraft fly over the site every few minutes.

Analysis: At the District V Advisory Board meeting held December 5, 2011, the District Advisory Board voted (7-0) to recommend approval subject to staff recommendations. At the MAPC meeting held December 8, 2011, the MAPC voted (10-0) to approve subject to the staff recommendations. No citizens were present to speak on the case. No protests have been received.

The recommendations of MAPC are to **APPROVE** the request subject the following conditions:

A. APPROVE the zone change (ZON2011-00037) to GC.

B. APPROVE DP-37 (CUP2011-00043), subject to the following conditions:

1. Parcels 14, 15, 16 and 17 shall conform to the standards in OW Office Warehouse ("OW"), Sec. III-15(e) (2) Outdoor Storage.

2. Parcels 14, 15, 16 and 17 shall conform to signage restrictions of the OW Office Warehouse ("OW") zoning district. No off-site or portable signs shall be permitted. No signs with moving, flashing, rotating signs or signs that create the illusion of movement shall be permitted.

3. 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.

4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

5. 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.

6. The applicant shall submit 4 revised copies of the C.U.P. 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.

Financial Considerations: There are no financial considerations in regards to the zoning request.

Goal Impact: The application will promote Economic Vitality.

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

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and authorize the Mayor to sign the ordinance and place the ordinance on first reading (simple majority required).

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Attachments:

- Ordinance
- DAB Memo
- MAPC Minutes

OCA 150004

ORDINANCE NO. 49-191

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. ZON2011-00037

Zone change request from LC Limited Commercial ("LC") to GC General Commercial ("GC") on properties described as:

Lots 1-4; Block B; Ridge Plaza 8th Additions, Wichita, Sedgwick County, Kansas; generally located south of University Drive and east of Emerson Street (7601 W. University Dr.).

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 24th day of January, 2012.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Mayor and Wichita City Council Members

FROM: Megan Buckmaster, Neighborhood Assistant District V

SUBJECT: **CUP2011-00043 and ZON2011-00037**

DATE: December 12, 2011

On Monday, December 05, 2011, the District Advisory Board (DAB) for Council District V considered a Amendment #5 to DP-37 Ridge Plaza CUP for a zone change from LC Limited Commercial ("LC") to GC General Commercial ("GC") to allow for the expansion of manufacturing uses on Parcels 14 through 17. General location is south of University Drive and east of Emerson Street (7601 W. University Dr.).

District Advisory Boards shared no concerns.

The action of the DAB was to approve the request subject to conditions listed in the staff report.

The vote was 7-0.

EXCERPT MINUTES OF THE DECEMBER 8, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2011-37 and CUP2011-43 – 7601 W. University, LLC, Randy Johnson (Owner/Applicant) and Baughman Company, PA, Russ Ewy (Agent) request CUP DP-37 Amendment #5 for a rezone from LC Limited Commercial to GC General Commercial to permit an expansion of manufacturing uses on property described as:

Lots 1-4; Block B; Ridge Plaza 8th Additions, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is proposing to amend DP-37 Ridge Plaza Community Unit Plan (CUP) and rezone Parcels 14 through 17 from LC Limited Commercial ("LC") to GC General Commercial ("GC"). The amendment would permit a wider range of manufacturing uses. Permitted uses would be: service and retail commercial, offices, financial institutions, medical offices and clinics, restaurants, private clubs, racquetball, tennis and health club facility and manufacturing. Parcel 14 permits theatres; Parcel 16 permits medical laboratories and Parcel 17 permits motor hotels. The new use for this amendment would be manufacturing. General manufacturing is first permitted in the GC zone district. A rezoning to "GC" would allow the requested use by-right. No other changes to the C.U.P. were requested by the amendment.

The property is located northwest of the interchange of Mid-Continent Road/Ridge Road and Kellogg. The closest land uses are: Pitney Bowes, CAP Carpet, Target and Slumberland Furniture Store. A drainage canal is the eastern boundary of the proposed site. Gallery Expressions and other home improvement stores are located east of the drainage canal, and west of Mid-Continent Road/Ridge Road. Three hotels, Comfort Suites, Value Place and Econo Lodge, and an office park with many small tenant spaces are located to the south and west. Kellogg is the southern boundary. No uses are visible on the other side of Kellogg, but land is held in large acreages associated with the airport. The parcels are on a main flight path to Wichita Mid-Continent Airport. Low flying aircraft fly over the site every few minutes.

CASE HISTORY: The property is platted as Ridge Plaza 8th Addition, dated April 18, 1982. DP-37 was originally approved on September 1, 1970. Amendment #1 was approved April 18, 1980, and primarily changed parcel boundaries to reflect the realignment of Ridge Road through the C.U.P. Amendment #2 was approved December 15, 1998; it rezoned Parcel 5 to GC and modified outdoor storage requirements for the proposed Lowe's. Amendment #3 for a cell tower was denied December 12, 2000. Amendment #4 was approved October 8, 2001; it rezoned Parcels 11, 12, 13, 18, 19 and 20 to GC.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Target and Lowe's
SOUTH:	GC	Furniture Retail
EAST:	LC	Retail
WEST:	LC & GC	Warehouse & office

PUBLIC SERVICES: Transportation access is via Ridge Road and Kellogg, but none of the parcels have direct access. Emerson/Taft and University, local non-residential streets, feed into Taft and into Mid-Continent Road/Ridge Road to the east. There is a signalized intersection for Taft and Mid-Continent Road/Ridge Road. Emerson/Taft and University also feed westward to Holland, which connects to Kellogg Drive and will have westbound access onto Kellogg at the Tyler interchange. 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 the site as appropriate for "Regional Commercial" uses. This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.

RECOMMENDATION: Current zoning of the parcel, LC Limited Commercial ("LC"), already allows retail uses, but does not permit the additional auto related and entertainment/recreation uses generally permitted along other segments of the Kellogg corridor and the office/warehouse and manufacturing types of uses.

Some existing uses in the vicinity, such as Typed Letters Corp. and Pitney Bowes, are similar to the requested warehouse and business service use. These firms, as well as construction sales and service firms and manufacturing uses, would be expected to have larger truck dock areas for loading and unloading than typical retail commercial uses.

The proposed amendment intensifies the potential retail commercial activities by permitting vehicle repair, general, which consists of auto body repair and painting, and animal care, general, which allows large animal care and possible outdoor boarding facilities.

The proximity of the site to Kellogg and the conformance of the requested amendment to the Comprehensive Plan are factors in favor of approving the request. The visibility of the site from Mid-Continent Road/Ridge Road, which is elevated above the grade of the parcels, argues that some controls on signage, building exteriors, and outdoor storage are advisable to maintain an attractive appearance on the corridor approaching the Wichita-Mid Continent Airport.

For these reasons, Staff recommends the application be APPROVED subject to the following conditions:

A. APPROVE the zone change (ZON2011-00037) to GC.

B. APPROVE DP-37 (CUP2011-00043), subject to the following conditions:

1. Parcels 14, 15, 16 and 17 shall conform to the standards in OW Office Warehouse ("OW"), Sec. III-15(e) (2) Outdoor Storage.

2. Parcels 14, 15, 16 and 17 shall conform to signage restrictions of the OW Office Warehouse ("OW") zoning district. No off-site or portable signs shall be permitted. No signs with moving, flashing, rotating signs or signs that create the illusion of movement shall be permitted.

3. Rooftop mechanical equipment and outdoor loading, work, and storage areas that are visible from these roads shall be screened from view unless it would be prohibitively expensive due to grade differences, in which case trees shall be planted and maintained as necessary to obscure these views. All building plans must be approved by the Planning Director as to compliance with these requirements.

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 shall submit 4 revised copies of the C.U.P. 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 zoning is LC Limited Commercial ("LC") to the north, east and west, and LI Limited Industrial ("LI") south of Kellogg. Nearby properties in Ridge Plaza are developed with business services, offices, a gymnastics school, and multi-tenant office buildings. Also, a hotel and two restaurants are nearby on a parcel with visibility to Kellogg.

2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable primarily for the non-retail types of GC uses because of the indirect access to Mid-Continent Road/Ridge Road and Kellogg. It is not expected that retail-oriented shopping/office uses would be located on these interior parcels.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment does not alter the permitted height of 80 feet, although this height might be restricted due to airport hazard height limits. Also, it does not alter the allowed building coverage or gross floor area on the existing C.U.P. The amount already permitted is substantial, 50 percent in the case of gross floor area, reflecting the policy that more intensive development should be channeled toward major corridors such as Kellogg. However, a conflicting rule is to restrict the amount of people located in areas under main flight paths. Several of the proposed uses (e.g. construction sales and service, warehousing, wholesale, business services and manufacturing) would be expected to have fewer people patronizing the establishments than retail commercial.

4. Length of time the property has remained vacant as zoned: Part of the property has been vacant since its original approval as a C.U.P. It has been platted since 1982. Perhaps the practical difficulties of getting firms to locate so near the flight path has been an obstacle to development and this would be mitigated by rezoning to uses less sensitive to proximity to airport impacts.

5. 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 the site as appropriate for "Regional Commercial" uses. This category encompasses major destination areas

(centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas. The requested change is in conformance with the "Regional Commercial" designation in the *Comprehensive Plan*.

6. Impact of the proposed development on community facilities: The proposed changes should not impact traffic any more than currently permitted uses.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

FOSTER moved, **KLAUSMEYER** seconded the motion, and it carried (10-0).

Agenda Item No. II-23

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: CUP2011-00042 and ZON2011 – 00038, Creation the Fox Ridge Plaza Commercial Community Unit Plan DP-330 and zone change from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") on property generally located 1,900 feet south of 37th Street North, east of North Maize Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: The MAPC recommends approval (9-0-1) subject to platting within one year and the amended development standards listed below.

MAPD Staff Recommendations: Planning staff recommends approval subject to platting within one year and the amended development standards listed below.

DAB Recommendations: The District Advisory Board recommends approval (7-0) subject to platting within one year and amended development conditions.

BACKGROUND: The applicant is seeking LC Limited Commercial ("LC") zoning subject to the development standards contained in the proposed Fox Ridge Plaza Commercial Community Unit Plan ("CUP") DP-330. The application area contains 35.63 acres located 1,900 feet south of West 37th Street North, east of North Maize Road. Currently the subject site is undeveloped SF-5 Single-family Residential ("SF-5") zoned property owned by Unified School District ("USD") 266, Maize School District. The site is the western most remnant of a 269.5-acre tract of land bought and platted earlier by USD 266 that was partially developed with three schools, associated parking and athletic fields. The school complex is located east of the subject site. It is planning staff's understanding the school district has determined the property is no longer needed for school purposes, and has offered the site for private development.

Hampton Lakes, LLC, proposes to rezone the property to permit all LC uses except: manufactured home, cemetery, correctional placement residence, recycling collection station, reverse vending machine, utility minor, utility major, animal kennels, night club, pawn shop, recreational vehicle campground, second hand store, tavern and drinking establishment, outdoor vehicle and equipment sales, asphalt and concrete plant, limited and warehousing. The following uses are proposed to be prohibited within the southern 100 feet of Parcels 1 and 8: convenience store, service station, auto repair and car wash. Car washes in the CUP are proposed to be subject to the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.

The property had approximately 1,248.70 feet of frontage along Maize Road. The applicant proposes to line the Maize Road frontage with six parcels (1.02 to 1.18 acres in area) and access points for two additional larger parcels (9.80 and 9.89 acres in area), Parcels 7 and 8. Parcels 7 and 8 are proposed to be located east of Parcels 1 through 6. Access to Maize Road for all the parcels is to be per access management guidelines with specific access points determined at the time of platting. The applicant proposes to relocate 34th Street, an existing private drive, north, and create a sixty-foot wide non-exclusive landscape reserve and easement south of the relocated 34th Street. A second reserve of 7.92 acres is proposed to be located east of Parcels 7 and 8, or approximately 1,025.12 feet east of the Maize Road right-of-way. The site is currently platted as the Maize School South School Complex Addition, and it has a drainage reserve, Reserve B, whose western boundary is located approximately 814 feet east of the Maize Road right-of-way. As proposed, the applicant's CUP will result in a reduced capacity of the plat's existing Reserve B to accommodate stormwater detention/retention. Without benefit of additional data, the City's stormwater engineer has indicated a concern with the proposed design. (Planning staff was advised at the time this report was being prepared that a replat with new stormwater calculations was to be filed in time for the City's stormwater engineer to be able to review the new data and provide Planning staff with an updated opinion prior to the public hearing. The Fox Ridge Plaza Addition (SUB2011-00055) was filed, and was scheduled for Subdivision Committee review on December 15, 2011; however, at the Subdivision Committee meeting the agent for the applicant requested and received an indefinite deferral.)

Building setbacks are proposed to be thirty-five feet along arterial streets, and fifteen feet for interior side and rear property lines. Proposed maximum building coverage is to vary from thirty percent to thirty-five percent. Proposed maximum building height is thirty-five feet for Parcels 1 through 6; for Parcels 7 and 8, the applicant proposes thirty-five-foot building height limits for all uses except for hotel or office uses that are to be permitted building heights up to fifty-two feet. (For comparison purposes, two parcels in the Stonebridge Commercial CUP DP-295 located to the north permit up to forty-five-foot building heights.) In lieu of the normally required six to eight-foot tall masonry wall, the applicant proposes to substitute a double row of evergreen trees on top of a four to seven-foot tall earthen berm in an easement located along the southern line of relocated 34th Street, and a single row of evergreens planted on twelve-foot centers in a fifteen-foot wide easement beginning at the southeast corner of Parcel 8 and running along the edge of the southern and eastern side of reserve to the northeast corner of the subject site.

Property to the north is part of DP-295 Stonebridge Commercial CUP, and is zoned LC and GC General Commercial ("GC") subject to the development standards contained in DP-295. Land to the east is zoned SF-5, and developed with the Maize school campus complex described earlier. Located south of the

subject site is 34th Street, a private street that connects the Maize school complex to Maize Road. The schools are zoned SF-5. South of 34th Street is a seventy-five-foot KG&E easement and Reserve A that are zoned SF-5, and owned by the Fox Ridge Master Homeowners Association. Reserve A is set aside for a storm water pond and or pedestrian access and landscaping. Further south of 34th Street is the Fox Ridge single-family residential neighborhood, also zoned SF-5. From the northern property line of the existing Fox Ridge single-family lots to the proposed southern CUP parcel line is 288 feet. West of the subject site, across Maize Road, is property located within the City of Maize that is zoned SF-5 and used as a grass farm.

As currently platted, the site is a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition. Lot 2, Block A of the Maize South School Campus Addition has a fifteen-foot water line easement running north and south abutting the eastern side of the Maize Road right-of-way, and a platted thirty-five-foot building setback. There is a ten-foot utility easement located along the northern property line. To develop the site as shown on the proposed CUP, the property will need to be replatted.

The CUP proposes six freestanding monument type signs (small tenant) with a maximum height of twenty feet except in the southern 300 feet where the maximum height is fifteen feet, plus two development marker/monument type signs (large development identification/tenant pylon) that are permitted to be thirty feet. Each of the six small tenant signs are permitted to have a maximum area of ninety square feet. The maximum area for the large development identification/tenant pylon signs shall be 200 square feet each. Large development identification/tenant pylon signs are not permitted in the southern 300 feet of the CUP. Minimum spacing between signs shall be 150 feet except for those signs adjacent to the large development identification/tenant pylon signs the minimum distance shall be 100 feet. Minimum distance between identification/tenant pylon signs shall be 50 feet. Collectively, the applicant proposes 940 square feet of sign face area.

Per the Sign Code, the site's Maize Road frontage of 1,248.70 feet would allow a total sign area of 998.96 square feet divided between the CUP's eight parcels or .8 square feet per one foot of road frontage. However, CUPs are considered unified developments and the Sign Code's maximum area standards may be modified by establishing specific alternative standards in the CUP. The total allowed sign face area may be divided unequally between all parcels provided the maximum area does not exceed the total area permitted by the CUP.

Analysis: At the District Advisory Board (DAB) V meeting held on December 5, 2010, the DAB voted unanimously (7-0) to approve the request as recommended by staff plus the following development conditions: 1) the developer will be responsible for any redevelopment costs associated with the relocation of 34th Street and 2) the height of the berm should be eight feet tall with a double row of fifteen-foot tall trees planted on fifteen-foot centers. Several citizens were present at the meeting and commented on the proposed development.

On December 8, 2011, the MAPC reviewed the application. One citizen representing the Fox Ridge Homeowners Association was present, and requested the following development standards: 1) the southern screening berm be located on the south side of 34th Street; 2) the berm be six to nine feet tall and planted with two rows of evergreens, ten to twelve feet tall, and native grasses similar to those used on the Fox Ridge landscape reserve also be used on the proposed berm; 3) exterior building façade material is to be brick or stone (the citizen was opposed to the use of sheet metal or cinder block as an exterior building material) and 4) a sidewalk is to be installed along 34th Street between the roundabout located on the southeastern corner of the application area to Maize Road.

The MAPC voted (9-0-1) to approve the application subject to the following amended staff recommendations:

A. **APPROVE** the zone change (ZON2011-00038) to LC Limited Commercial subject to platting within one year.

B. **APPROVE** the Community Unit Plan (DP-330), subject to the conditions of the CUP attached hereto and the following conditions:

1. General Provision 17 shall add the following: "Drainage requirements and improvements shall be determined at the time of platting. If necessary, the CUP development plan shall be adjusted or amended to reflect final drainage requirements."
2. Any costs associated with the relocation of the intersection of 34th Street and Maize shall be the applicant's responsibility.
3. General Provision 4 shall add the following: "Predominate exterior building materials shall be masonry."
4. The second sentence of General Provision 8 D shall be amended as follows: "If so, a double row of evergreens shall be placed upon a 6 to 9 foot tall earthen berm along the south line of 34th Street." The following requirement shall also be added to General Provision 8 D, "In addition to the required evergreens, the berm is also to be planted with native grasses similar to those used in the existing Fox Ridge neighborhood reserve located adjacent to the CUP's proposed berm."
5. 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.
6. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-330) includes special conditions for development on this property.

There has not been any protest petitions filed with the City Clerk.

Financial Considerations: Approval of the request will not create any atypical financial considerations to the City.

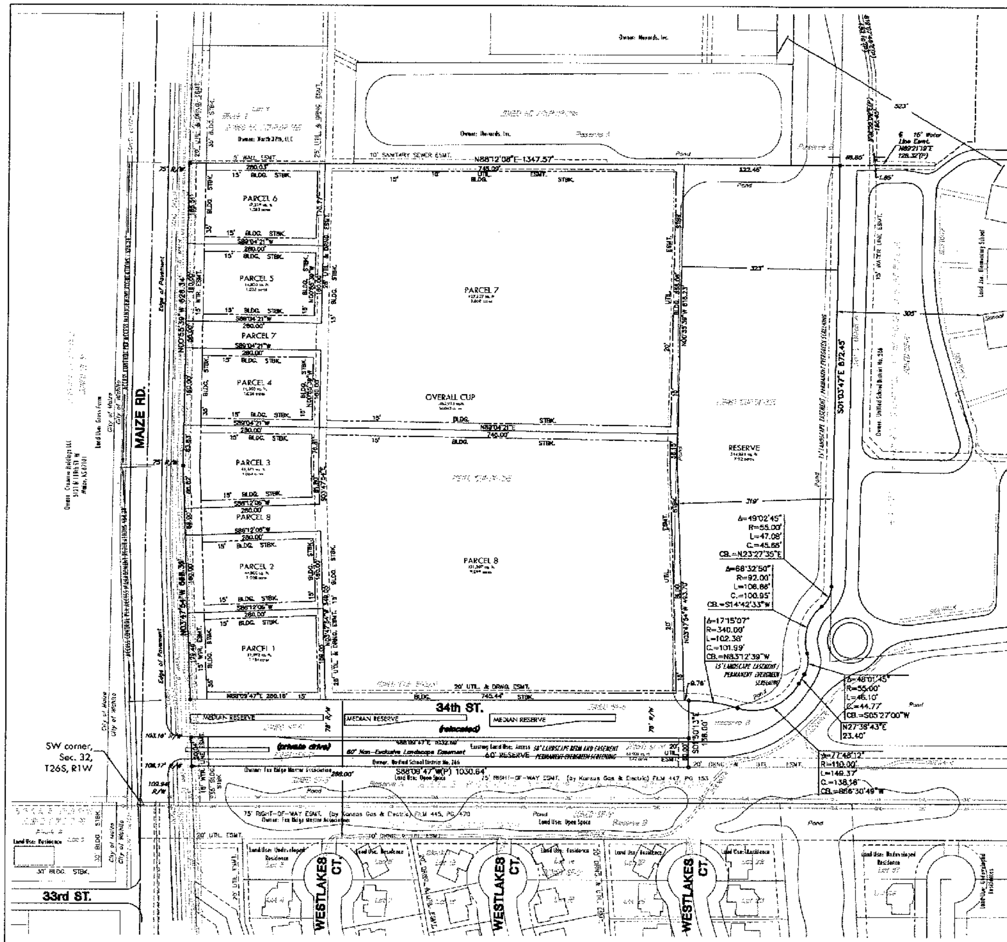
Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and CUP subject to the condition of platting within one year and the recommended conditions; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to the City Council (simple majority vote required).

(An override of the Planning Commission's recommendation requires a two-third majority vote of the City Council on the first hearing.)

Attachments: CUP drawing, MAPC minutes, DAB minutes, ordinance



DEVELOPMENT GUIDELINES

General Provisions

1. Areas
   The total development contains 35.635 acres of land with a net land area of 24.832 acres.

2. Parcel Descriptions
   Summary
   Total allowable buildings = 24
   (excepting accessory structures)
   Total allowable floor ratio = .32
   (may be adjusted from parcel to parcel)
   Minimum Building Setbacks (applies to all parcels as shown)
   Arterial Street setback = 35' Interior side setback = 15' Rear setback = 15'

   Parcel 1
   Gross Area= 1.184 Ac. or 51,592 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=35%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 18,057 s.f.
   Floor Area Ratio=0.35

   Parcel 2
   Gross Area= 1.028 Ac. or 44,800 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=35%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 15,680 s.f.
   Floor Area Ratio=0.35

   Parcel 3
   Gross Area= 1.064 Ac. or 46,375 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=35%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 16,231 s.f.
   Floor Area Ratio=0.35

   Parcel 4
   Gross Area= 1.028 Ac. or 44,800 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=35%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 15,680 s.f.
   Floor Area Ratio=0.35

   Parcel 5
   Gross Area= 1.028 Ac. or 44,800 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=35%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 15,680 s.f.
   Floor Area Ratio=0.35

   Parcel 6
   Gross Area= 1.083 Ac. or 47,219 s.f.
   Maximum Height=35 feet
   Max. Building Coverage=30%
   Maximum Building(s) = 2
   Max. Gross Floor Area=35% or 16,527 s.f.
   Floor Area Ratio=0.35

   Parcel 7
   Gross Area= 9.808 Ac. or 427,327 s.f.
   Maximum Height= 52 feet for Hotel or Office
   35 feet for all other occupied structures
   Max. Building Coverage=30%
   Maximum Building(s) = 6
   Max. Gross Floor Area=30% or 128,198 s.f.
   Floor Area Ratio=0.30

   Parcel 8
   Gross Area= 9.899 Ac. or 431,207 s.f.
   Maximum Height= 52 feet for Hotel or Office
   35 feet for all other occupied structures
   Max. Building Coverage=30%
   Maximum Building(s) = 6
   Max. Gross Floor Area=30% 129,362 s.f.
   Floor Area Ratio=0.30

3. The following uses are permitted for all Parcels within the C.U.P.:
   A. All Parcels allow for all uses permitted within the Limited Commercial Zoning District (LC), except the uses listed below:
   Manufactured Home, Cemetery, Correctional Placement Residences, Recycling Collection Stations, Reverse Vending Machine, Utility Minor, Utility Major, Animal Kennels, Night Club, Pawn Shop, Recreational Vehicle Campground, Second Hand Store, Tavern and Drinking Establishment, Vehicle and Equipment Sales Outdoor, Warehouse, Asphalt or Concrete Plant Limited. Additionally, the following uses are prohibited within the south 100 feet of Parcels 1 and 8: convenience stores, service stations, auto repair, car washes. Car Washes in the CUP shall be subject to the supplementary use regulations of Sec. III-D.6.f. of the Unified Zoning Code.
   B. The uses permitted by the C.U.P. are only those uses permitted by right and not by conditional use unless specifically identified.

4. Architectural Controls:
   With exception to Parcel 7 and 8, all buildings within the C.U.P. shall share a uniform architectural character, color, and same predominate exterior building material, as determined by the Director of Planning. All building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accents, and must employ materials similar to surrounding residential areas. The predominate exterior building materials shall be masonry, unless approved by the Director of Planning.

5. Title:
   The transfer of the title on all or any portion of the land included in 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 and amended. However, the Director of the MAPD, with the concurrence of the Zoning Administrator, may approve minor adjustments to the conditions in this overlay, consistent with the approved development plan, without filing a formal ordinance amendment.

6. Landscaping for this site shall be required as follows:
   A. Landscaped street yards, buffers, and parking lot landscaping and screening - 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 the type, location, and specifications of all plant material. This plan shall be submitted to the Metropolitan Area Planning Department (MAPD) for its review and approval prior to issuance of any building permit(s).
   C. A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.

7. Lighting:
   A. Lighting shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV.
   B. All Parcels shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles and lamps and etc.), as approved by the Director of the MAPD.
   C. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.
   D. Light poles including above ground base shall be limited to 27 feet tall, except 15 feet tall when within 100 feet of residential zoning with residential use. Light poles along the east lines of Parcels 7 and 8 shall be limited to 15 feet.
   E. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

8. Screening for this site shall be required as follows:
   A. Rooftop mechanical equipment shall be screened from ground level view per Wichita-Sedgwick County Unified Zoning Code.
   B. Trash receptacles, loading docks, outdoor storage, and loading areas shall be appropriately screened to reasonably hide them from ground view.
   C. Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.
   D. Masonry walls may be substituted with evergreen screening along the south and eastern boundaries of the CUP. If so, a double row of evergreens shall be placed upon a 6 to 9 foot tall earthen berm along the south line of 34th Street. In addition to the required evergreens, the berm is also to be planted with native grasses similar to those used in the existing Fox Ridge neighborhood reserve located adjacent to the CUP's proposed berm. And if so, a single row of evergreens shall be planted from the southeast corner of Parcel 8 and continue along the edge of the Reserve to the northeast corner of the Reserve. All evergreens shall be planted a minimum rate of 16 feet on center. Evergreens along the southern berm may be planted in a random manner to maintain a cohesive aesthetic with the neighboring residential development, so long as the evergreens form a living wall effectively creating an opaque screen.

9. Setbacks:
   Setbacks are as follows and or as specified in Wichita-Sedgwick County Unified Zoning Code. If contiguous Parcels are to be developed under the same ownership, setbacks between those Parcels are not required. Also see Parcel Descriptions for building setbacks.

10. Reserves:
    The location and size of the reserves shall be determined at the time of final platting; however, the location and size of the reserves shall generally be the same as indicated on the CUP unless modified by a CUP adjustment or amendment. Reserves without identified uses are limited to drainage, utilities, landscape buffers or similar uses unless modified by a CUP adjustment or amendment.

11. Parking:
    All Parcels, shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV-A, unless otherwise specified.

12. No occupancy permits shall be issued for any development without services by municipal water and sewer services.

13. All proposed new utilities shall be installed underground.

14. Signs: As permitted under the current Sign Code of the City of Wichita. Additionally, the following conditions apply:
    A. All Parcels are subject to the requirements of the Sign Code for the City of Wichita for Limited Commercial (LC) Zoning District.
    B. No flashing, moving, portable, billboard, banner, or pennant signs shall be permitted (except for signs showing time and temperature).
    C. Building signage shall be permitted within the C.U.P. and per the current Sign Code.
    D. Accent lighting of monument signs shall be permitted.
    E. Window signage shall be limited to 25% of window area. The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear frontage.
    F. All signs along Maize Road shall be monument or pylon type signs. There are two sizes of proposed signs: Small Tenant, Large Development Identification/Tenant Pylon.
    Small Tenant Monuments are limited as follows:
    Allowed locations - Parcels 1, 2, 3, 4, 5, and 6 are allowed 1 sign
    Maximum height - 20 feet (except the south 300' which is limited to 15 feet)
    Maximum sign area - 95 square feet each
    Minimum distance between signs - 150 feet except, when adjacent to Large Pylon 100 feet

    Large Development Identification/Tenant Pylons are limited as follows:
    Allowed locations - Two along Maize Road (not permitted in the south 300' of CUP)
    For Parcels 7 and 8
    Maximum height - 30 feet
    Maximum sign area - 250 square feet each
    Minimum distance between signs - 50 feet

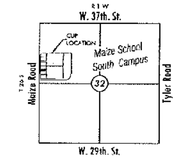
15. The following transportation improvements and Parcel access shall be provided:
    A. Cross-lot circulation agreements shall be required at the time of platting to ensure internal vehicular movement between Parcels within the C.U.P.
    B. Guarantees for specific street and or signalization improvements for Maize Road shall be further reviewed and determined at the time of final platting. Any costs associated with the relocation of the intersection of 34th Street and Maize shall be the applicant's responsibility.
    C. Access controls shall be as shown on the Final Plat and revised upon the C.U.P.
    D. An overall site circulation plan shall be submitted for review and approval by the Director of Planning, in concurrence with the Zoning Administrator and Traffic Engineer. The circulation plan shall assure smooth internal vehicular and pedestrian movements, pedestrian connectivity to major arterial and within buildings on the CUP and may provide connections to adjoining properties, and ensure that the main drives are not blocked by parking spaces directly backing onto the main drive aisles.

16. Grading Plan:
    A lot grading plan will be prepared in conformance with the Drainage Concept Plan for review prior to the issuance of a Building Permit.

17. Final determination of minimum pad elevations (at least 2 feet higher than the 100 year flood elevation), street right(s)-of-way, easements, and pavement widths on public private streets shall be resolved at the time of platting. Drainage requirements and improvements shall be determined at the time of platting. If necessary, the CUP development plan shall be adjusted or amended to reflect final drainage requirements.

18. 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.

19. Any major changes within this Community Development Plan shall be submitted to the Planning Commission and the Governing Body for their consideration. Amendments, adjustments, or interpretations to the C.U.P. shall be done in accordance with the Unified Zoning Code.



VICINITY MAP

LEGAL DESCRIPTION

A contiguous tract of land lying within a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:
BEGINNING at the northwest corner of said Lot 2; thence on an assumed bearing of N88°12'08"E, 1347.57 feet to the east line of said Reserve B; thence along said east line, S01°03'47"E, 872.45 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 49°02'45", a chord bearing of S23°27'35"W, and a chord distance of 45.66 feet; thence along the arc of said curve a distance of 47.08 feet to a point on a curve to the left, having a radius of 92.00 feet, a central angle of 66°32'50", a chord bearing of S14°42'33"W, and a chord distance of 100.95 feet; thence along the arc of said curve a distance of 106.86 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 48°01'45", a chord bearing of S05°27'00"W, and a chord distance of 44.77 feet; thence along the arc of said curve a distance of 46.10 feet; thence S29°27'53"W, 18.75 feet to a point on a curve to the right, having a radius of 205.00 feet, a central angle of 58°41'55", a chord bearing of S58°48'50"W, and a chord distance of 200.95 feet; thence along the arc of said curve a distance of 210.02 feet; thence S88°09'47"W, 1088.26 feet; thence N03°47'54"W, 544.32 feet; thence N00°55'39"W, 626.34 feet to the POINT OF BEGINNING.

LEGEND

- WATER LINE
- GAS LINE
- OVERHEAD ELECTRIC
- FIBER OPTIC LINE
- ▲ SECTION CORNER
- • POLE

100 0 100 200

COMMUNITY UNIT PLAN DP-330

FOX RIDGE PLAZA

OWNER / DEVELOPER: Hampton Lakes, LLC Attn: Marv Schellenberg 7926 W. 21st Wichita, KS 67205 316-721-2153

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

EXCERPT MINUTES OF THE DECEMBER 8, 2011 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2011-38 and CUP2011-42 – USD #266 Maize School District (Bruce Nicholson, owner); Hampton Lakes, LLC (Marv Schellenberg, contract purchaser) / MKEC Engineering Consultants, Inc., (Greg Allison, agent) request creation of a new CUP Community Unit Plan Fox Ridge Plaza and zone change to LC Limited Commercial to allow for commercial development on property described as:

A contiguous tract of land lying within a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follows:

BEGINNING at the northeast corner of said Lot 2; thence on an assumed bearing of N88 12 08E, 1347.57 feet to the east line of said Reserve B; thence along said east line, S01 03 47E, 868.09 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 49 32 58, a cord bearing of S23 42 42W, and a chord distance of 46.10 feet; thence along the arc of said curve a distance of 47.56 feet to a point on a curve to the left, having a radius of 95.00 feet, a central angle of 67 58 10, a chord bearing of S14 30 06W, and a chord distance of 106.21 feet; thence along the arc of said curve a distance 112.70 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 48 56 51, a chord bearing of S04 59 27W, and a chord distance of 45.57 feet; thence along the arc of said curve a distance of 46.99 feet; thence S29 27 53W, 16.48 feet to a point on a curve to the right, having a radius of 205.00 feet, a central angle of 58 41 55, a chord bearing of S58 48 50W, and a chord distance of 200.95 feet; thence along the arc of said curve a distance of 210.02 feet; thence S88 09 47W, 1088.26 feet; thence N03 47 54W, 544.32 feet; thence N00 55 39W, 626.34 feet to the POINT OF BEGINNING.

BACKGROUND: The applicant is seeking LC Limited Commercial ("LC") zoning subject to the development standards contained in the proposed Fox Ridge Plaza Commercial Community Unit Plan ("CUP") DP-330. The application area contains 35.63 acres located 1,900 feet south of West 37th Street North, east of North Maize Road. Currently the subject site is undeveloped SF-5 Single-family Residential ("SF-5") zoned property owned by Unified School District ("USD") 266, Maize School District. The site is the western most remnant of a 269.5-acre tract of land bought and platted earlier by USD 266 that was partially developed with three schools, associated parking and athletic fields. The school complex is located east of the subject site. It is planning staff's understanding, the school district has determined the property is no longer needed for school purposes, and has offered the site for private development.

Hampton Lakes, LLC, proposes to rezone the property to permit all LC uses except: manufactured home, cemetery, correctional placement residence, recycling collection station, reverse vending machine, utility minor, utility major, animal kennels, night club, pawn shop, recreational vehicle campground, second hand store, tavern and drinking establishment, outdoor vehicle and equipment sales, asphalt and concrete plant, limited, and warehousing. The following uses are proposed to be prohibited within the southern 100 feet of Parcels 1 and 8: convenience store, service station, auto repair and car wash. Car washes in the CUP are proposed to be subject to the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.

The property had approximately 1,248.70 feet of frontage along Maize Road. The applicant proposes to line the Maize Road frontage with six parcels (1.02 to 1.18 acres in area) and access points for two additional larger parcels 9.80 and 9.89 acres in area), Parcels 7 and 8. Parcels 7-8 are proposed to be

located east of Parcels 1-6. Access to Maize Road for all the parcels is to be per access management guidelines with specific access points determined at the time of platting. The applicant proposes to relocate 34th Street, an existing private drive, north, and create a sixty-foot wide non-exclusive landscape easement south of the relocated 34th Street. A second reserve of 7.92 acres is proposed to be located east of Parcels 7 and 8, or approximately 1,025.12 feet east of the Maize Road right-of-way. Currently, the Maize School South School Complex Addition has a drainage reserve, Reserve B, whose western boundary is located approximately 814 feet east of the Maize Road right-of-way. As proposed, the applicant's CUP will result in a reduced capacity of the existing Reserve B to accommodate stormwater detention/retention. Without benefit of additional data, the City's stormwater engineer has indicated a concern with the proposed design. (Planning staff was advised at the time this report was being prepared that a replat with new stormwater calculations was to be filed in time for the City's stormwater engineer to be able to review the new data and provide Planning staff with an updated opinion prior to the public hearing. The Fox Ridge Plaza Addition (SUB2011-00055) has been filed, and is scheduled for Subdivision Committee review on December 15, 2011.)

Building setbacks are proposed to be thirty-five feet along arterial streets, and fifteen feet for interior side and rear property lines. Proposed maximum building coverage is to vary from thirty percent to thirty-five percent. Proposed maximum building height is thirty-five feet for Parcels 1-6; for Parcels 7 and 8, the applicant proposes thirty-five-foot building height limits for all uses except for hotel or office uses that are to be permitted building heights up to fifty-two feet. (For comparison purposes, two parcels in the Stonebridge Commercial CUP DP-295 permit up to forty-five-foot building heights.) In lieu of the normally required six to eight-foot tall masonry wall, the applicant proposes to substitute a double row of evergreen trees on top of a four to seven-foot tall earthen berm in an easement located along the southern line of relocated 34th Street, and a single row of evergreens planted on twelve-foot centers in a fifteen-foot wide easement beginning at the southeast corner of Parcel 8 and running along the edge of the southern and eastern side of reserve to the northeast corner of the subject site.

Property to the north is part of DP-295 Stonebridge Commercial CUP, and is zoned LC and GC General Commercial ("GC") subject to the development standards contained in DP-295. Land to the east is zoned SF-5, and developed with the Maize school campus complex described earlier. Located south of the subject site is 34th Street, a private street that connects the Maize school complex to Maize Road that is zoned SF-5. South of 34th Street is a seventy-five-foot KG&E easement and Reserve A that are zoned SF-5, and owned by the Fox Ridge Master Homeowners Association. Reserve A is set aside for storm water pond and or pedestrian access and landscaping. Further south of 34th Street is the Fox Ridge single-family residential neighborhood, also zoned SF-5. From the northern property line of the existing Fox Ridge single-family lots to the proposed southern CUP parcel line is 288 feet. West of the subject site, across Maize Road, is property located within the City of Maize that is zoned SF-5 and uses as a grass farm.

As currently platted, the site is a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition. Lot 2, Block A of the Maize South School Campus Addition has a fifteen-foot water line easement running north and south abutting the eastern side of the Maize Road right-of-way, and a platted thirty-five-foot building setback. There is a ten-foot utility easement located along the northern property line. To develop the site as shown on the proposed CUP, the property will need to be replatted.

The CUP proposes six freestanding monument type signs (small tenant) with a maximum height of twenty feet except in the southern 300 feet where the maximum height is fifteen feet, plus two development marker/monument type signs (large development identification/tenant pylon) that are permitted to be thirty feet. Each of the six small tenant signs are permitted to have a maximum area of ninety square feet. The maximum area for the large development identification/tenant pylon signs shall

be 200 square feet each. Large development identification/tenant pylon signs are not permitted in the southern 300 feet of the CUP. Minimum spacing between signs shall be 150 feet except for those signs adjacent to the large development identification/tenant pylon signs the minimum distance shall be 100 feet. Minimum distance between identification/tenant pylon signs shall be 50 feet. Collectively, the applicant proposes 940 square feet of sign face area.

Per the Sign Code, the site's Maize Road frontage of 1,248.70 feet would allow a total sign area of 998.96 square feet divided between the CUP's eight parcels or .8 square feet per one foot of road frontage. However, CUPs are considered unified developments and the Sign Code's maximum area standards may be modified by establishing specific alternative standards in the CUP. The total allowed sign face area may be divided unequally between all parcels provided the maximum area does not exceed the total area permitted by the CUP.

CASE HISTORY: The Maize School South Campus Addition was recorded on July 28, 2008, and was a replat of the Central Maize Schools Addition. The property's current SF-5 zoning was applied when the property was annexed.

ADJACENT ZONING AND LAND USE:

NORTH:	LC and GC, subject to CUP DP-295; commercial and retail uses
SOUTH:	SF-5; single-family residences
EAST:	SF-5; public schools and associated facilities
WEST:	City of Maize SF-5 zoning; grass farm

PUBLIC SERVICES: Maize Road is designated a four-lane arterial, and is developed as a four-lane paved road. Maize Road at this location has 75 feet of half-street right-of-way. Public sewer and water services are available or can be extended to the site. The City of Wichita's consultant has already completed design work for the installation of traffic signals at the current intersection of 34th and Maize. The consultant has advised the City that the proposed relocation of 34th Street will require a total redesign of the plans for the planned signals. It is recommended that any design costs associated with the relocation of 34th Street be the applicant's responsibility.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* map depicts the site as being appropriate for "major institutional' uses. Major institutional uses include institutional facilities of a significant size and scale of operation and could include a range of such uses as governmental facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities. The 2030 Wichita Functional Land Use Guide's designation of major institutional use was based upon the Maize school district's ownership. The 1999 update of *The Wichita-Sedgwick County Comprehensive Plan* indicates that commercial uses: should be encouraged to locate near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; should be coordinated with mass transit routes, high density residential, employment and other intensive uses; should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and should be located in compact clusters or nodes versus extended strip development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP and zone change be APPROVED, subject to replatting within one-year and the additional following development standards:

A. General Provision 17 shall add the following: Drainage requirements and improvements shall be determined at the time of platting. If necessary, the CUP development plan shall be adjusted or amended to reflect final drainage requirements.
B. Any costs associated with the relocation of the intersection of 34th Street and Maize shall be the applicant's responsibility.
C. 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 Maize Road and 37th Street intersection is developing into a significant retail and commercial node. Land on two of the corners of Maize Road and 37th Street intersection are in the City of Wichita, and are zoned LC, subject to CUPs. The other two corners of the intersection are located in the City of Maize. Maize Road, at this location, is a four-lane arterial. Property to the north of the subject property is part of DP-295 Stonebridge Commercial CUP, and is zoned LC and GC General Commercial ("GC") subject to the development standards contained in DP-295. Land to the east is zoned SF-5, and developed with the Maize school campus complex described earlier. Located south of the subject site is 34th Street, a private street that connects the Maize school complex to Maize Road that is zoned SF-5. South of 34th Street is a seventy-five-foot KG&E easement, and Reserve A, property zoned SF-5 and owned by the Fox Ridge Master Homeowners Association that is set aside for storm water pond and or pedestrian access and landscaping. Further south of 34th Street is the Fox Ridge single-family residential neighborhood, also zoned SF-5. From the northern property line of the existing Fox Ridge single-family lots to the proposed southern CUP parcel line is 288 feet. West of the subject site, across Maize Road, is property located within the City of Maize.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 Single Family Residential and is thirty-five acres in size. SF-5 zoning primarily permits single-family residential uses plus some other uses traditionally found in single-family residential zoning such as parks, churches or schools. The property is large enough, and given its proximity to the Maize school complex, it could potentially be developed with an economically viable use as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development standards associated with the CUP are designed to minimize or mitigate anticipated impacts to nearby property. The site has 288 feet between the residential use to the south and the subject site's southern property line.

4. Length of time the property has remained vacant: The property is currently vacant. Staff is not aware how long the property may have been offered for private use.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* map depicts the site as being appropriate for "major institutional' uses. Major institutional uses include institutional facilities of a significant size and scale of operation and could include a range of such uses as governmental facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical treatment facilities. The 2030 Wichita Functional Land Use Guide's designation of major institutional use was based upon the Maize school district's ownership. The 1999 update of *The Wichita-Sedgwick County Comprehensive Plan* indicates that commercial uses: should be encouraged to locate near arterial streets or major thoroughfares that provide needed ingress and egress in order

to avoid traffic congestion; should be coordinated with mass transit routes, high density residential, employment and other intensive uses; should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses and should be located in compact clusters or nodes versus extended strip development. The proposed development plan incorporates increased setbacks, signage controls within the southern 300 feet of the CUP, additional landscaping and architectural controls.

6. Impact of the proposed development on community facilities: The project will generate increased traffic and demand for utilities and City supplied services; however, these demands will or can be met by existing or planned improvements.

DALE MILLER, Planning Staff presented the Staff Report.

CHAIR FARNEY mentioned the school to the east of the property and asked if there was any language or provision for a sidewalk along 34th Street.

MILLER responded that there was nothing in the Community Unit Plan (CUP) but added that could be addressed at the time of platting.

THOMAS LUTHER, 10128 WEST WESTLAKES COURT said he lived in the second cul-de-sac from Maize Road, and was present to represent other homeowners in the neighborhood who were not able to be at the meeting today. He said the neighbors are quite fond of Marvin, and have a great regard for his ability and demonstrated performance in the past. He said they feel the property will be very well developed. He said they are concerned that any future developer be bound by the provisions of the CUP and specifically requested the following be written into the record and become a permanent part of the agreement: A berm on the south side of the road from Maize to the first round-about, which he said has already been planned; that the road be located somewhat north of its current position; that the berm be 6-9 feet high and topped with a double row of Eastern Cedars 10-15 feet high and 12 feet on center; that ground coverage be vegetation and native grasses currently being used in the Fox Ridge development so the appearance will blend in with rest of the development; and that buildings constructed on site that were high enough to be visible above the berm be faced with stone or brick so as not to look unduly commercial. He said they want to avoid concrete, sheet metal and cinder block. He said they understand these are the provisions in accordance with what MKEC and the developer and engineer presented at the DAB V meeting Monday, December 5, 2011. He mentioned addition of sidewalks and said he shares the concern for humanitarian purposes. He said the road will be busier so it would be a good idea that the sidewalk be extended from the first roundabout to Maize Road. He concluded by mentioning that he came from Vermont and said that he admires Kansan's respect for other people's property rights and their sense of free enterprise.

GREG ALLISON, MKEC, AGENT FOR THE APPLICANT mentioned a modification that the Eastern Cedars will be 15-16 on center and placed at angles to provide complete screening from the commercial site to the residential site. He reviewed a landscape architectural rendering of the berm and road and briefly explained the berm and moving the road to the north.

DENNIS asked if it would be stone or brick façade on the building.

ALLISON said it will be primarily stone or masonry without predominate sheet metal.

DENNIS asked about the white lines on the drawing.

ALLISON said those are the existing sidewalks into the neighborhood.

MOTION: To approve subject to staff recommendation with modifications made by applicant, agent and the neighborhood as follows: a berm 6-9 feet high; a double row of trees randomly spaced for a screen/barrier; that ground cover be natural grass; that the facade facing the homeowners be predominately brick or stone masonry; and that the road be relocated further north.

DENNIS moved, **DOWNING** seconded the motion, and it carried (9-0-1). **FOSTER** – Abstained.

COMMISSIONER FOSTER back on the bench.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Mayor and Wichita City Council Members

FROM: Megan Buckmaster, Neighborhood Assistant District V

SUBJECT: **CUP2011-00042 and ZON2011-00038**

DATE: December 12, 2011

On Monday, December 05, 2011, the District Advisory Board (DAB) for Council District V considered Zone change request to LC Limited Commercial ("LC") and creation of DP-330 Stonebridge Commercial South Community Unit Plan located 1,900 feet south of 37th Street North, east side of North Maize Road.

District Advisory Boards had the following questions and/or shared the following concerns. Responses from staff and/or agent for the applicant are in bold.

1. The cost of reconstructing the road would be on the developer, not the homeowners in the area or the school district. **The developer will incur all of those costs.**

Members of the public had the following questions and/or shared the following concerns. Responses from staff and/or agent for the applicant are in bold.

Nolan Comstock, 10228 Westlakes CT, is concerned with the proposed height of the berm. He believes the plan looks great on paper, but the reality will be much different. **A minimum 8 foot berm is proposed with 15 foot double rowed trees with a 15 foot center.**

Dana Johnston, 10216 Westlakes Ct. is also concerned with the proposed berm height.

Doug Maan, 10120 Westlakes Ct., Treasurer of the Fox Ridge Masters HOA, shared concerns with getting the needed easements from Westar. **Because the new road is not planned on the developer's property, the anticipated easements are not all needed. Those that are the developer are working on acquiring**.

Matt Hall, 10124 Westlakes Ct., is concerned with screening, berm height, and flooding. **The Cadillac Lakes improvement project has already improved flooding in this area. This project is proposing adding another 10-25% capacity.**

The action of the DAB was to approve the request with the additions as proposed in the staff report to the MAPC with the addition of a minimum 6 to 9 foot berm.

The vote was 7-0.

OCA#150004

ORDINANCE NO._____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2011-38

A zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with the provisions of Community Unit Plan DP-330 on property described as:

A contiguous tract of land lying within a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

BEGINNING at the northwest corner of said Lot 2; thence on an assumed bearing of N88°12'08"E, 1347.57 feet to the east line of said Reserve B; thence along said east line, S01°03'47"E, 872.45 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 49°02'45", a chord bearing of S23°27'35"W, and a chord distance of 45.66 feet; thence along the arc of said curve a distance of 47.08 feet to a point on a curve to the left, having a radius of 92.00 feet, a central angle of 66°32'50", a chord bearing of S14°42'33"W, and a chord distance of 100.95 feet; thence along the arc of said curve a distance of 106.86 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 48°01'45", a chord bearing of S05°27'00"W, and a chord distance of 44.77 feet; thence along the arc of said curve a distance of 46.10 feet; thence S29°27'53"W, 18.75 feet to a point on a curve to the right, having a radius of 205.00 feet, a central angle of 58°41'55", a chord bearing of S58°48'50"W, and a chord distance of 200.95 feet; thence along the arc of said curve a distance of 210.02 feet; thence S88°09'47"W, 1088.26 feet; thence N03°47'54"W, 544.32 feet; thence N00°55'39"W, 626.34 feet to the POINT OF BEGINNING.

Wichita Sedgwick County, Kansas; generally located 1,900 feet south of 37th Street North, east of North Maize Road.

SUBJECT TO PLATTING WITHIN ONE YEAR OF APPROVAL BY THE GOVERNING BODY AND THE PROVISIONS OF COMMUNITY UNIT PLAN DP-330

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, _____

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney

OCA#150004

ORDINANCE NO. 49-192

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. ZON2011-38

A zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC") with the provisions of Community Unit Plan DP-330 on property described as:

A contiguous tract of land lying within a portion of Lot 2, Block A, and a portion of Reserve B, Maize South School Campus Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follow:

BEGINNING at the northwest corner of said Lot 2; thence on an assumed bearing of N88°12'08"E, 1347.57 feet to the east line of said Reserve B; thence along said east line, S01°03'47"E, 872.45 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 49°02'45", a chord bearing of S23°27'35"W, and a chord distance of 45.66 feet; thence along the arc of said curve a distance of 47.08 feet to a point on a curve to the left, having a radius of 92.00 feet, a central angle of 66°32'50", a chord bearing of S14°42'33"W, and a chord distance of 100.95 feet; thence along the arc of said curve a distance of 106.86 feet to a point on a curve to the right, having a radius of 55.00 feet, a central angle of 48°01'45", a chord bearing of S05°27'00"W, and a chord distance of 44.77 feet; thence along the arc of said curve a distance of 46.10 feet; thence S29°27'53"W, 18.75 feet to a point on a curve to the right, having a radius of 205.00 feet, a central angle of 58°41'55", a chord bearing of S58°48'50"W, and a chord distance of 200.95 feet; thence along the arc of said curve a distance of 210.02 feet; thence S88°09'47"W, 1088.26 feet; thence N03°47'54"W, 544.32 feet; thence N00°55'39"W, 626.34 feet to the POINT OF BEGINNING.

Wichita Sedgwick County, Kansas; generally located 1,900 feet south of 37th Street North, east of North Maize Road.

SUBJECT TO PLATTING WITHIN ONE YEAR OF APPROVAL BY THE GOVERNING BODY AND THE PROVISIONS OF COMMUNITY UNIT PLAN DP-330

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, January 24, 2012.

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, City Clerk

Approved as to form:

_____

Gary E. Rebenstorf, City Attorney

Agenda Item No. II-24

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

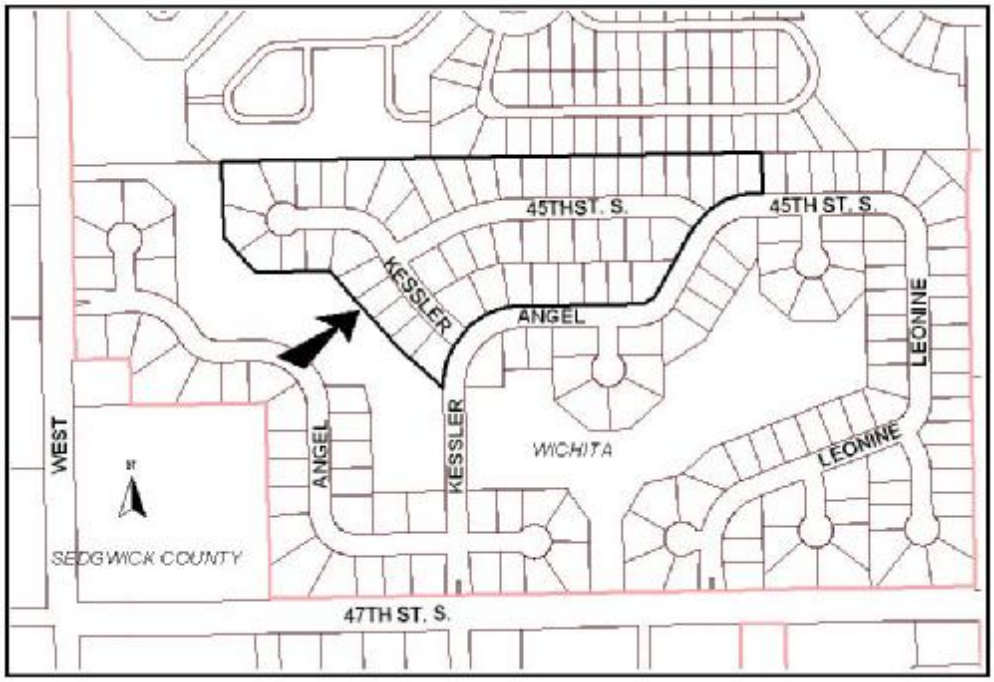
SUBJECT: SUB2011-00038 -- Plat of Angel Fire 2nd Addition located north of 47th Street South, east of West Street. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)



Background: The site, consisting of 42 lots on 11.46 acres, is a replat of a portion of the Angel Fire Addition. The site is located within Wichita and is zoned TF-3 Two-family Residential.

Analysis: The applicant has submitted 100 percent Petitions and a Certificate of Petitions for sewer, water, paving and drainage improvements. The applicant has submitted a Restrictive Covenant to provide for shared ownership and maintenance of the previously platted reserves in Angel Fire Addition that are not included in the plat.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Goal Impact: Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

Legal Considerations: The Certificate of Petitions, Restrictive Covenant and Resolutions have been approved as to form by the Law Department and will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

Attachments: Certificate of Petitions
Restrictive Covenant
Resolutions

CERTIFICATE OF PETITION

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

We, Caywood, LLC, a Kansas Limited Liability Company, owners of ANGEL FIRE 2ND ADDITION, Wichita, Sedgwick County, Kansas, do hereby certify that petition(s) for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

1. Sanitary Sewer Improvements
2. Water Line Improvements
3. Pavement Improvements
4. Storm Water Drain Improvements
5. Water Main Improvements

As a result of the above-mentioned petition(s) for improvements, all lots or portions thereof within Angel Fire 2nd Addition, may be subject to special assessments assessed thereto for the cost of constructing the above-described improvements.

Signed this 8th day of December, 2011.

Caywood, LLC

By: _____
Mathias F. Eck, Manager

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 8th day of December, 2011, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Mathias F. Eck as Manager of Caywood LLC, a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same 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.

JUDITH M. TERHUNE
Notary Public - State of Kansas
My Appt. Expires 11-7-13

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-13)

Approved as to form:

Gary E. Rebenstorf, Director of Law

RESTRICTIVE COVENANT

THIS DECLARATION made this 8th day of December, 2011, by Caywood, LLC, a Kansas Limited Liability Company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

ANGEL FIRE 2ND ADDITION
Lots 1 through 26, Block A
Lots 1 through 16, Block B

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Angel Fire 2nd Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Angel Fire 2nd Addition, being a re-plat of a part of Angel Fire Addition, will continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

5. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserves, as defined, for the purposes of maintaining such Reserves. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners Association, as may be appropriate, has failed to maintain the reserves in a reasonable and prudent manner.
and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or

Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be considered an assessment against all lots in Angel Fire 2nd Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in ANGEL FIRE 2ND ADDITION, Wichita, Sedgwick County, Kansas.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written.

Caywood, LLC

By:_____
Mathias F. Eck, Manager

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 8th day of December, 2011, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Mathias F. Eck as Manager of Caywood, LLC, a Kansas Limited Liability Company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same 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.

JUDITH M. TERHUNE
Notary Public - State of Kansas
My Appt. Expires 11-7-13

(My Appointment Expires: 11-7-13)

Judith M. Terhune
Notary Public

Approved as to form:

Gary E. Rebenstorf, Director of Law

132019

First Published in the Wichita Eagle on January 13, 2012

RESOLUTION NO. 12-011

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING **PAVEMENT ON KESSLER AND KESSLER CIRCLE FROM THE NORTH LINE OF LOT 42, BLOCK C, ANGEL FIRE ADDITION, NORTH TO AND INCLUDING THE CUL-DE-SAC; ON ANGEL FROM THE EAST LINE OF KESSLER, EAST TO THE SOUTH LINE OF 45TH ST. SOUTH; AND ON 45TH ST. SOUTH FROM THE EAST LINE OF KESSLER EAST TO THE EAST LINE OF LOT 28, BLOCK C, ANGEL FIRE ADDITION AND THAT THERE BE CONSTRUCTED PAVEMENT ON ANGEL COURT FROM THE SOUTH LINE OF ANGEL, SOUTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON KESSLER, ANGEL AND 45TH ST. SOUTH (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET) 472-84887** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING **PAVEMENT ON KESSLER AND KESSLER CIRCLE FROM THE NORTH LINE OF LOT 42, BLOCK C, ANGEL FIRE ADDITION, NORTH TO AND INCLUDING THE CUL-DE-SAC; ON ANGEL FROM THE EAST LINE OF KESSLER, EAST TO THE SOUTH LINE OF 45TH ST. SOUTH; AND ON 45TH ST. SOUTH FROM THE EAST LINE OF KESSLER EAST TO THE EAST LINE OF LOT 28, BLOCK C, ANGEL FIRE ADDITION AND THAT THERE BE CONSTRUCTED PAVEMENT ON ANGEL COURT FROM THE SOUTH LINE OF ANGEL, SOUTH TO AND INCLUDING THE CUL-DE-SAC AND THAT SIDEWALK BE CONSTRUCTED ON KESSLER, ANGEL AND 45TH ST. SOUTH (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET) 472-84887** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 10-058** adopted on **March 9, 2010** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing **pavement on Kessler and Kessler Circle from the north line of Lot 42, Block C, Angel Fire Addition, north to and including the cul-de-sac; on Angel from the east line of Kessler, east to the south line of 45th St. South; and on 45th St. South from the east line of Kessler east to the east line of Lot 28, Block C, Angel Fire Addition and that there be constructed pavement on Angel Court from the south line of Angel, south to and including the cul-de-sac and that sidewalk be constructed on Kessler, Angel and 45th St. South (north of 47th St. South, east of West Street) 472-84887.** Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **Seven Hundred Thirty-Nine Thousand Dollars ($739,000)** 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 **January 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

ANGEL FIRE ADDITION
Lots 28 through 41, Block C

ANGEL FIRE 2ND ADDITION
Lots 1 through 26, Block A
Lots 1 through 16, Block B

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

> 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: Lots 28 through 41, Block C, ANGEL FIRE ADDITION shall each pay 1/56 of the total cost of the improvements; and Lots 1 through 26, Block A, and Lots 1 through 16, Block B, ANGEL FIRE 2Nd ADDITION shall each pay 1/56 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 or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of January, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
DIRECTOR OF LAW

132019

First Published in the Wichita Eagle on January 13, 2012

RESOLUTION NO. 12-012

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 535, SOUTHWEST INTERCEPTOR SEWER (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET) 468-84669** 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 535, SOUTHWEST INTERCEPTOR SEWER (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET) 468-84669** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 10-056** adopted on **March 9, 2010** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Lateral 535, Southwest Interceptor Sewer (north of 47th St. South, east of West Street) 468-84669.**

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Two Hundred Eighty-Seven Thousand Dollars ($287,000)** 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 **January 1, 2012**, exclusive of the costs of temporary financing.

That, in accordance with the provisions of K.S.A. 12-a619, 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 Thirty-Three Thousand Forty-Six Dollars ($33,046).

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

ANGEL FIRE ADDITION
Lots 28 through 41, Block C

ANGEL FIRE 2ND ADDITION
Lots 1 through 26, Block A
Lots 1 through 16, Block B

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

> 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: Lots 28 through 41, Block C, ANGEL FIRE ADDITION shall each pay 1/56 of the total cost of the improvements; and Lots 1 through 26, Block A, and Lots 1 through 16, Block B, ANGEL FIRE 2ND ADDITION shall each pay 1/56 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 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of January, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E REBENSTORF
DIRECTOR OF LAW

132019

First Published in the Wichita Eagle on January 13, 2012

RESOLUTION NO. 12-013

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90472 (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90472 (NORTH OF 47TH ST. SOUTH, EAST OF WEST STREET)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 10-056** adopted on **March 9, 2010** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Water Distribution System Number 448-90472 (north of 47th St. South, east of West Street).**

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **One Hundred Thirty-One Thousand Dollars ($131,000)** 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 **January 1, 2012**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

ANGEL FIRE ADDITION
Lots 28 through 41, Block C

ANGEL FIRE 2ND ADDITION
Lots 1 through 26, Block A
Lots 1 through 16, Block B

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

> 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: Lots 28 through 41, Block C, ANGEL FIRE ADDITION, shall each pay 1/56 of the total cost of the improvements; and Lots 1 through 26, Block A, and Lots 1 through 16, Block B, ANGEL FIRE 2ND ADDITION, shall each pay 1/56 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 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of January, 2012.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY E. REBENSTORF
DIRECTOR OF LAW

City of Wichita
City Council Meeting
January 10, 2012

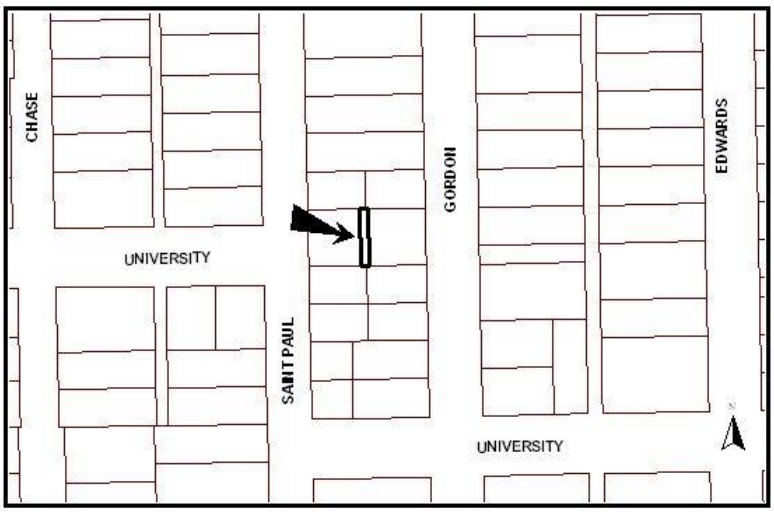
TO: Mayor and City Council

SUBJECT: DED2011-00008 – Dedication of utility easement located south of Maple and west of Meridian. (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the dedication.



Background: The Dedication is associated with Lot Split Case No. SUB2011-00052 (Martinson's 5th Addition).

Analysis: The Dedication is for construction, operation, maintenance and repair of public utilities.

Financial Considerations: There are no financial considerations associated with the Dedication.

Goal Impact: Approval of the Dedication will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

Legal Considerations: The Dedication has been approved as to form by the Law Department and will be recorded with the Register of Deeds.

Recommendations/Actions: It is recommended that the City Council accept the Dedication.

Attachments: Utility Easement Dedication

EASEMENT

THIS EASEMENT made this 3rd day of November, 2011, by and between Justin Blue Properties, LLC, a Kansas limited liability company, 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, does hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of construction, maintaining, and repairing public utilities, over, along, and under the following described real estate situated in Sedgwick County, Kansas; to wit:

See attached Exhibit "A"

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of construction, operating, maintaining, and repairing such public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

Approved as to form:

Justin Blue Properties, LLC,
A Kansas limited liability company

_____ Member
Justin Blue

_____
Gary E. Rebenstorf, Director of Law

State of Kansas)
) SS
Sedgwick County)

The foregoing instrument was acknowledged before me this 3rd day of November,

2011 by Justin Blue, Member, on behalf of Justin Blue Properties, LLC, a Kansas limited liability company.

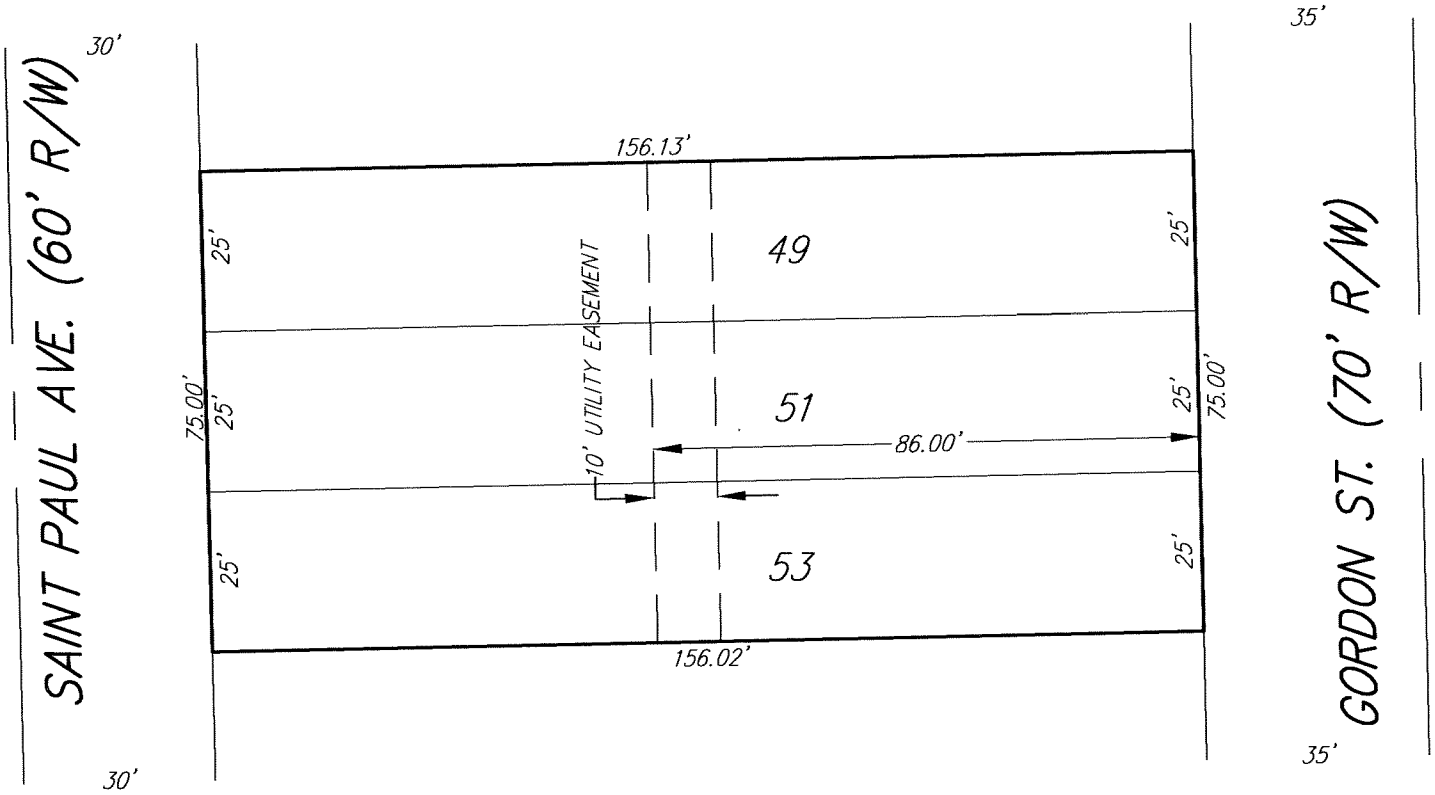
_____, Notary Public
(signature of notary officer)

MILDRED E. FRANK
NOTARY PUBLIC
STATE OF KANSAS

DED 2011-08
(SOB 2011-52)

My appointment expires: 02-13, 2015.

EXHIBIT A



10' UTILITY EASEMENT

The west 10.00 feet of the east 86.00 feet of Lots 49, 51 and 53, Martinson's 5th Addition to Wichita (Sedgwick County), Kansas.

WILLIAM K. CLEVENGER
LICENSED
LS-1437
10/19/11
KANSAS
LAND SURVEYOR

1" = 30'

DWG FILE: LOT SPLIT
PROJECT NO. 3845L
OCTOBER 19, 2011

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

Agenda Item No. II-26

City of Wichita
City Council Meeting
January 10, 2012

To: Mayor and City Council

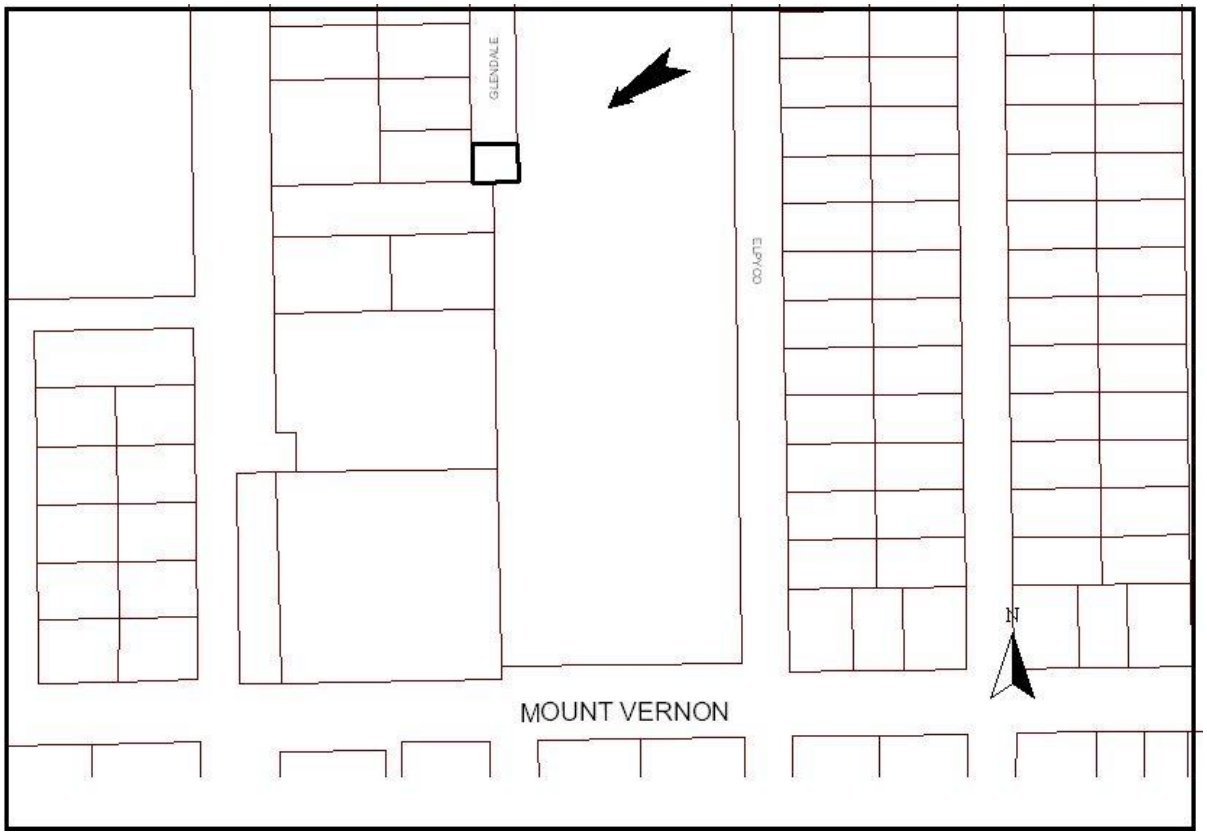
Subject: VAC2011-00017 - Request to vacate a portion of a platted public street right-of-way and a portion of a platted setback; generally located between Oliver and Elpyco Avenues and Mount Vernon Road and Funston Street. (District III)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



Background: The applicants are requesting the vacation of an approximately 60-foot wide by 50-foot long southern portion of the platted Glendale Avenue street right-of-way, located along the west lot line of Lot 1, Block 1, Allen Elementary School Addition (applicant), and the east lot line of Lot 3, Henderson 2nd Addition (applicant). Currently Glendale dead ends at the TF-3 Two-Family Residential ("TF-3") zoned Allen Elementary School Addition and an unplatted TF-3 zoned property owned by the applicant. The Fire Department has approved the proposed vacation in regards to access. The current right-of-way vacation request will not landlock any abutting or adjacent properties. There is water located in this portion of right-of-way, but no other utilities. The waterline plans for relocation have been approved; project number 1631PPW. The applicant is also requesting the vacation of the platted six-foot building setback line that runs parallel to the described vacated portion of right of way and the west property line of Lot 1, Block 1, Allen Elementary School Addition. The Allen Elementary School Addition was recorded with the Register of Deeds April 3, 2002. The Henderson 2nd Addition was recorded with the Register of Deeds January 2, 1955.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to be to City standards and at the applicant's expense.

Goal Impact: The application supports the City's goal to ensure Efficient Infrastructure.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order and the restrictive covenants. A certified copy of the Vacation Order and the restrictive covenants will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission, to approve the Vacation Order and authorize the necessary signatures.

Attachments: No attachments are necessary for this vacation request.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: A12-01 – Request by John E. Dugan Family Partnership, L.P. to annex lands generally located at the northwest corner of 31st Street South and Maize Road (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Approve the annexation request.

Background: The City has received a request to annex 52 acres of land generally located at the northwest corner of 31st Street South and Maize Road. The annexation area abuts the City of Wichita to the south of the property. The annexation area is unplatted but is being platted as the Skyway West 3rd Addition, which was approved by the Metropolitan Area Planning Commission on November 17, 2011.

Analysis:
Land Use and Zoning: The annexation area consists of approximately 52 acres zoned "SF-20" Single-Family Residential and is undeveloped. On November 24, 2010, the Board of County Commissioners of Sedgwick County approved of a zone change for the property to "IP" Industrial Park with Protective Overlay District #247, subject to platting the property within one year. Annexation of the property is a condition of the plat. The adjacent properties to the north, east, and west are zoned "SF-20" Single-Family Residential and are used for agriculture. The adjacent property to the south is zoned "IP" Industrial Park and is undeveloped.

Public Services: Water service is available to be extended to the subject property from a 16-inch main located along Maize Road. Sanitary sewer service will need to be extended to serve the subject property. The nearest existing sanitary sewer mains are located approximately 1,750 feet to the north and 2,500 feet to the south of the subject property. As a condition of the plat, the applicant is responsible for providing a guarantee for the extension of water transmission and distribution lines and sanitary sewer mains and laterals to serve the subject property. A drainage plan for the subject property has been approved that requires an offsite drainage easement or agreement.

Street System: The plat of the subject property approves one full-movement access drive to Maize Road, a two-lane arterial street. The plat of the subject property prohibits access drives to 31st Street South, an unimproved section-line road. As a condition of the plat, the applicant is responsible for providing a guarantee for left and right turn lanes on Maize Road to serve the subject property. The 2009-2018 Adopted Capital Improvement Program contains projects to reconstruct Maize Road to a five-lane arterial street from 31st Street South to Pawnee in 2014 and from 31st Street South to K-42 Highway in 2016.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Fire Station No. 17 at 10651 W. Maple is the nearest fire station to the site. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

Parks: Pawnee Prairie Park, a 625 acre semi-regional park located approximately one-half mile northeast of the subject property at 2625 S. Tyler, is the nearest park. The Parks, Recreation and Open Space Plan

identifies a proposed a proposed park target area approximately one-half mile southwest of the subject property and a proposed pathway approximately one-half mile east of the subject property.

School District: The annexation property is part of Unified School District 265 (Goddard School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the Wichita 2030 Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is $9,140 with a total assessed value of $2,742. Using the current City levy ($32.272/$1000 x assessed valuation), roughly yields $88 in City annual property tax revenues for the property upon annexation. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating approximately 340,000 square feet of industrial development over the next 20 years. The total appraised value of the commercial development after completion is estimated at approximately $27.2 million. Assuming the current City levy remains about the same, this would roughly yield a total of approximately $222,500 in City annual tax revenues.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure Efficient Infrastructure, and annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, *et seq*. The annexation ordinance has been reviewed by the Law Department and approved as to form.

Recommendations/Actions: It is recommended that the City Council approve the annexation request, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachment: Map Sheet
Ordinance

OCA150004
PUBLISHED IN THE WICHITA EAGLE ON JANUARY 27, 2012

ORDINANCE NO. 49-193

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A12-01)

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

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District IV respectively:

Beginning at a point on the East line of Section 6, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, a distance of 30 feet north of the Southeast corner of said Section; thence going northerly along the East line of the Section, a distance of 867.8 feet; thence turning left and going westerly to the Half Section line at a point 880.6 feet north of the South Quarter corner of the Section; thence turning left and going southerly, a distance of 850.6 feet; thence turning left and going easterly parallel to the South Section line to the point of beginning, subject to road rights-of-way of record.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this January 24, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

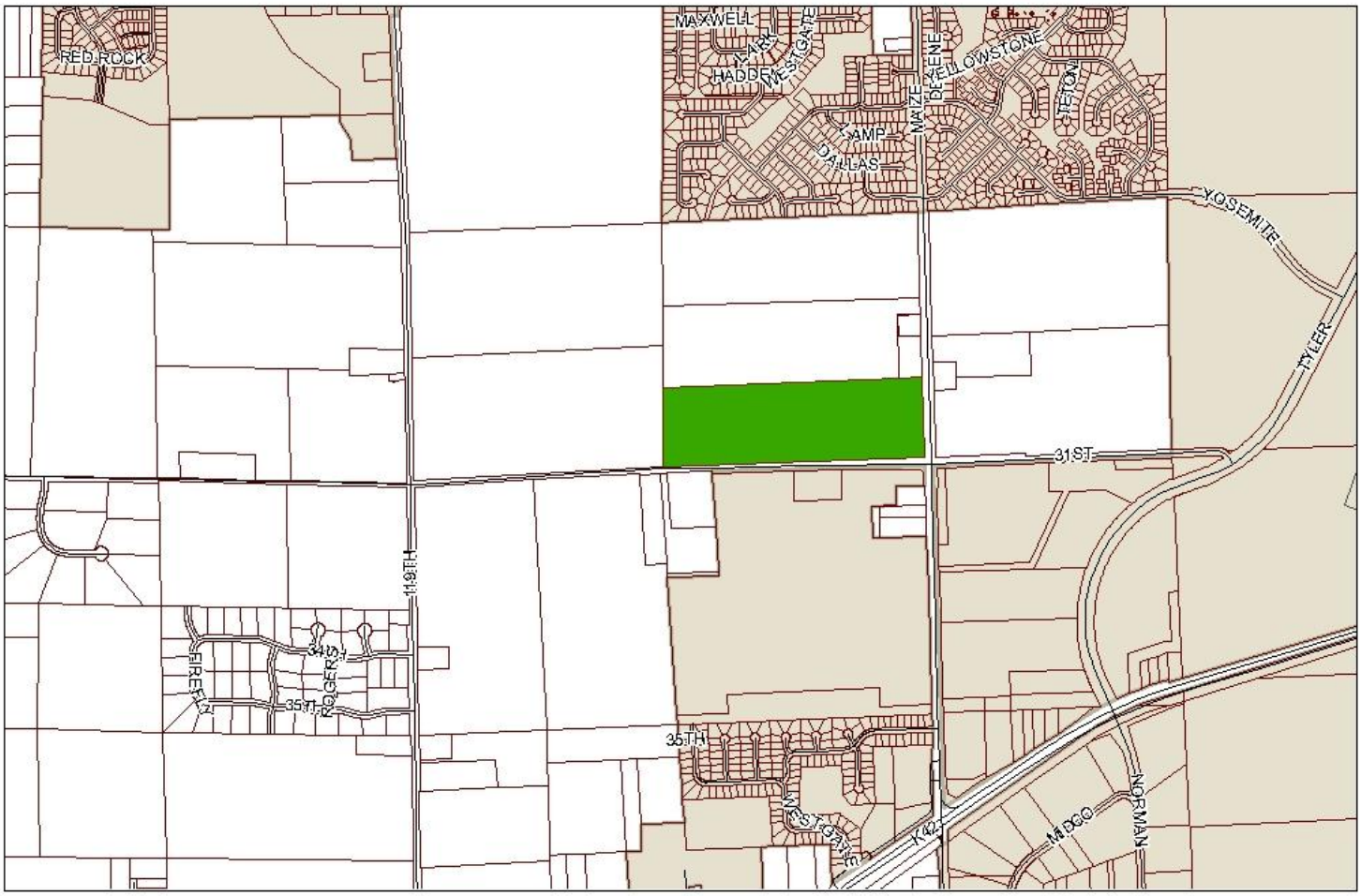
Planning Agenda **Item:** A12-01 Attachment No. 1

An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

General Location: Northwest corner of 31st Street South and Maize Road

Address:	N/A	**Reason(s) for Annexation:**	
52	Area in Acres	X	Request
0	Existing population (est.)		Unilateral
0	Existing dwelling units		Island
0	Existing industrial/commercial units		Other:

Existing zoning:	"SF-20" Single Family Residential



ANNEXATION AREA
WICHITA
SEDGWICK COUNTY

N

Software: ArcGIS
Map Data Sources: City of Wichita, Sedgwick County
Prepared: 2/5/09

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property is represented on this map is not intended to be inclusive.

City of Wichita
City Council Meeting
January 10, 2012

TO: Mayor and City Council

SUBJECT: A12-02: Request by John E. Dugan Family Partnership, L.P.; John E. and Marilyn K. Dugan; and Christopher Dugan to annex lands generally located at the southeast corner of 31st Street South and 119th Street West (District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Approve the annexation request.

Background: The City has received a request to annex 164.5 acres of land generally located at the southeast corner of 31st Street South and 119th Street West. The annexation area abuts the City of Wichita to the east of the property. The annexation area is unplatted but is being platted as the Skyway West 2nd Addition, which was approved by the Metropolitan Area Planning Commission on November 17, 2011.

Analysis:
Land Use and Zoning: The annexation area consists of approximately 164.5 acres zoned "SF-20" Single-Family Residential and is undeveloped. On November 24, 2010, the Board of County Commissioners of Sedgwick County approved of a zone change for the property to "IP" Industrial Park with Protective Overlay District #247, subject to platting the property within one year. Annexation of the property is a condition of the plat. The adjacent properties to the north and south are zoned "SF-20" Single-Family Residential and are used for agriculture. The adjacent property to the east is zoned "IP" Industrial Park and is undeveloped. The adjacent properties to the west are zoned "SF-20" Single-Family Residential and are developed with single-family residences.

Public Services: Water and sanitary sewer service will need to be extended to serve the subject property. Sanitary sewer service will need to be extended to serve the subject property. The nearest existing water and sanitary sewer mains are located in the Harvest Ridge Addition near the southeast corner of the subject property. As a condition of the plat, the applicant is responsible for providing a guarantee for the extension of water transmission and distribution lines and sanitary sewer mains and laterals to serve the subject property. A drainage plan for the subject property has been approved that requires an offsite drainage easement or agreement.

Street System: The plat of the subject property approves five access drives to 119th Street West, a two-lane arterial street. The plat of the subject property prohibits access drives to 31st Street South, an unimproved section-line road. As a condition of the plat, the applicant is responsible for providing a guarantee for left and right turn lanes on 119th Street West to serve the subject property.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Fire Station No. 17 at 10651 W. Maple is the nearest fire station to the site. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

Parks: Pawnee Prairie Park, a 625 acre semi-regional park located approximately one mile northeast of the subject property at 2625 S. Tyler, is the nearest park. The Parks, Recreation and Open Space Plan identifies a proposed a proposed park target area immediately west of the subject property and a proposed pathway approximately one mile east of the subject property.

School District: The annexation property is part of Unified School District 265 (Goddard School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the Wichita 2030 Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is $28,400 with a total assessed value of $8,520. Using the current City levy ($32.272/$1000 x assessed valuation), roughly yields $279 in City annual property tax revenues for the property upon annexation. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the property owner is anticipating approximately 1.1 million square feet of industrial development over the next 20 years. The total appraised value of the commercial development after completion is estimated at approximately $88 million. Assuming the current City levy remains about the same, this would roughly yield a total of approximately $720,000 in City annual tax revenues.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure Efficient Infrastructure, and annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, *et seq*. The annexation ordinance has been reviewed by the Law Department and approved as to form.

Recommendations/Actions: It is recommended that the City Council approve the annexation request, place the ordinance on first reading, authorize the necessary signatures and instruct the City Clerk to publish the ordinance after approval on second reading.

Attachment: Map Sheet
Ordinance

OCA150004
PUBLISHED IN THE WICHITA EAGLE ON JANUARY 27, 2012

ORDINANCE NO. 49-194

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A12-02)

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

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District IV respectively:

Parcel 1:
The West Half of the Northwest Quarter of Section 7, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part described as beginning at a point on the West line of said Northwest Quarter, 683.93 feet north of the Southwest corner thereof; thence north on said West line, 238 feet; thence east at an interior angle of 91˚18', 366.15 feet; thence south at an interior angle of 88˚42', 238 feet; thence west 366.15 feet to the point of beginning, subject to road rights-of-way of record. (Key No. WA-39)

Parcel 2:
The East Half of the Northwest Quarter of Section 7, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT the east 220 feet of the north 990 feet thereof, subject to road rights-of-way of record. (Key No. WA-40)

Parcel 3:
The north 349.65 feet of the following described tract: A tract of land in the Southwest Quarter of Section 7, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at a point on the North line of said Southwest Quarter, 1386.55 feet east of the Northwest corner of said Southwest Quarter; thence east on said North line of said Southwest Quarter, 1371.05 feet to the Northeast corner of said Southwest Quarter; thence south on the East line of said Southwest Quarter, 1318.2 feet to the Southeast corner of the North Half of the Southwest Quarter; thence west on the South line of said

North Half of the Southwest Quarter, 1427.02 feet to a point 1397.3 feet east of the West line of said Southwest Quarter; thence north 1318.22 feet to the point of beginning, EXCEPT that portion now platted as St. Peter the Apostle Catholic Church Addition, Sedgwick County, Kansas.
(Key No. WA-51-1B)

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this January 24, 2012.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Planning Agenda

Item: A12-02 Attachment No. 1

An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

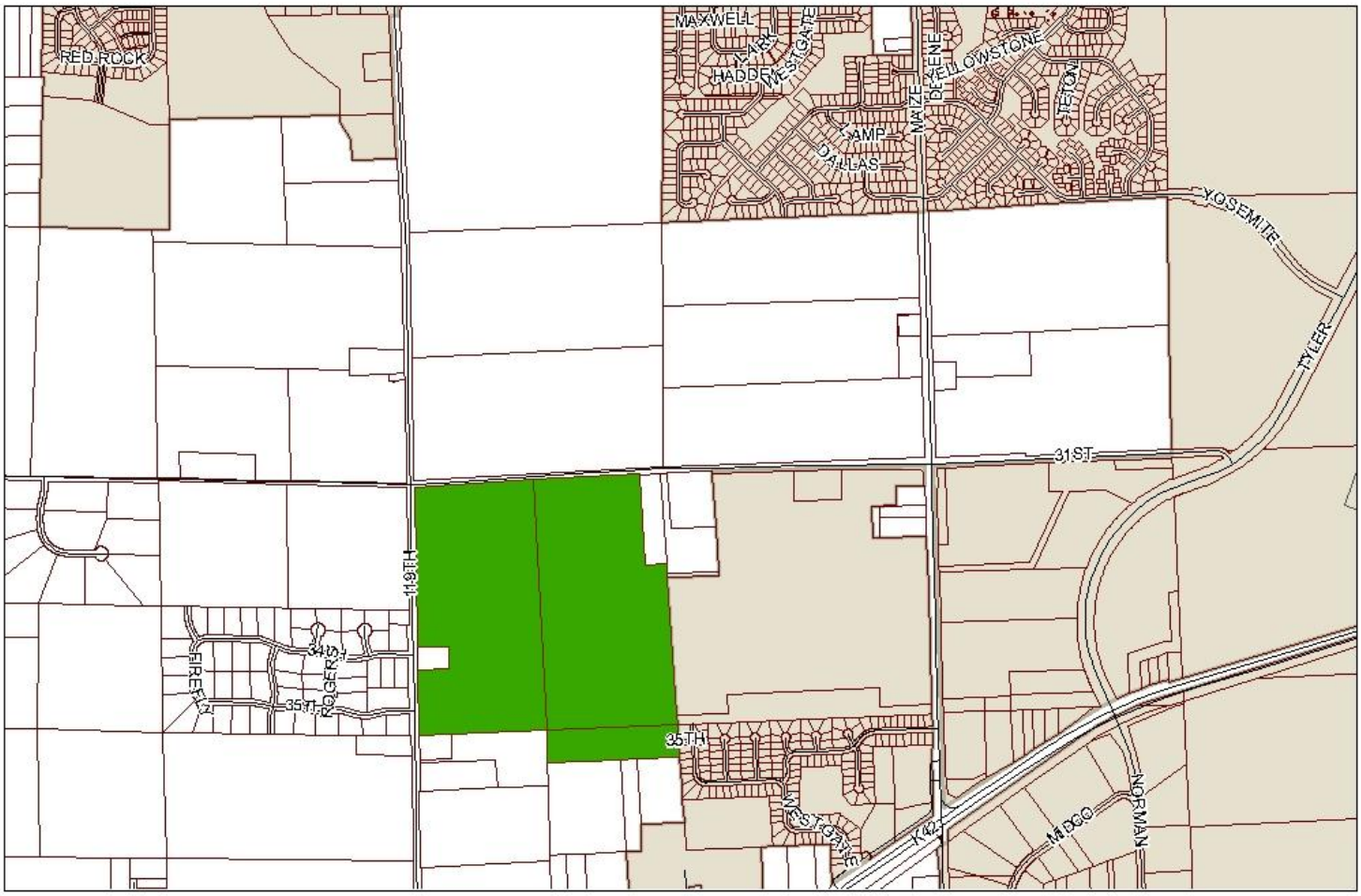
General Location: Southeast corner of 31st Street South and 119th Street West

Address: N/A

164.5	Area in Acres	X	Request
0	Existing population (est.)		Unilateral
0	Existing dwelling units		Island
0	Existing industrial/commercial units		Other:

Reason(s) for Annexation:

Existing zoning:	"SF-20" Single Family Residential



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City of Wichita
City Council Meeting
January 10, 2012

TO: Wichita Airport Authority

SUBJECT: Host International – Supplemental Agreement No. 6 – Restaurant and Concession Operations at Wichita Mid-Continent Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: The Wichita Airport Authority (WAA) has an existing concession agreement with Host International, Inc. ("HMS Host") to provide food, beverage, and news/gift shop services and concessions in the terminal building through December 31, 2011. Construction of the major portions of the Air Capital Terminal 3 (ACT 3) project is estimated to be completed in the last quarter of 2014. In an effort to provide continuous and uninterrupted concession services until the new terminal opens, it is recommended that the current agreement with HMS Host be extended.

Analysis: A supplemental agreement is provided which extends the agreement from December 31, 2011 through June 30, 2014 and shall continue on a month-to-month basis until the future terminal opens for business. The major obstacle to undertaking a competitive public procurement at this time is that there are many uncertainties and unknowns associated with the design of the future concession facilities. These uncertainties and unknowns would likely have a negative and detrimental effect on price proposals. In order to financially protect themselves, concessionaires will typically inflate price proposals when there are many unknowns associated with a project. It is reasonable and appropriate to continue with the same concessionaire, under the same contractual conditions, with the same financial arrangements and known management, until the closing of the current terminal. A competitive concessionaire selection will be initiated prior to the completion of the new terminal at a period that the new concessionaire will have time to construct its facilities and be ready to offer services when the new terminal opens.

Financial Considerations: There are no financial impacts on the Airport with respect to costs. However, extending the term of the Agreement allows HMS Host to continue the current operations and make investments in its facilities at the Airport.

Goal Impact: The Airport's contribution to the Economic Vitality and Quality of Life of Wichita is promoted through negotiating agreements which allow Mid-Continent's business partners to continue operations on the Airport, which generate rental income for the WAA and allows the Airport to continue its operation on a self-sustaining basis.

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

Recommendations/Actions: It is recommended that the Wichita Airport Authority approve the supplemental agreement and authorize the necessary signatures.

Attachments: Supplemental Agreement No. 6.

SUPPLEMENTAL AGREEMENT NO. 6

BY AND BETWEEN

THE WICHITA AIRPORT AUTHORITY

AND

HOST INTERNATIONAL, INC.

Restaurant and Concession Operator
Terminal Building - Wichita Mid-Continent Airport

THIS SUPPLEMENTAL AGREEMENT No. 6, made and entered into this January 10, 2012, by and between the WICHITA AIRPORT AUTHORITY, hereinafter referred to as "Lessor", and HOST INTERNATIONAL INC., hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, the parties hereto have heretofore entered into an Agreement dated February 5, 1990; Supplemental Agreement No. 1 dated June 21, 1993; Supplemental Agreement No. 2 dated October 20, 1997; Supplemental No. 3 dated February 14, 2006; Supplemental No. 4 dated September 19, 2006; and Supplemental No. 5 dated January 15, 2008 for use of various facilities in the terminal building for the purpose of operating certain concessions in said terminal building; and

WHEREAS, the Lessor and Lessee are now desirous of entering into this Supplemental Agreement No. 6 for the purpose of modifying terms and extending the term of the Agreement; and

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

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

1. Term

Section 2 of Supplemental Agreement 5, is hereby modified as follows:

The term of this extension shall be for a thirty-month (30) period commencing January 1, 2012 and terminating June 30, 2014.

It is acknowledged that the process and timeline for selecting a concessionaire(s) for the purpose of operating certain concessions in said terminal building has not been determined at this time, and remains subject to final terminal design and construction. As set out in Paragraph 1 of this Section, the term of this extension shall be through June 30, 2014, until such time as the process for competitive public selection of a concessionaire(s) for the terminal building has been completed. After June 30, 2014, this Agreement shall continue on a month-to-month basis until the said terminal building is opened for business. Lessor shall provide a sixty-day (60) written notice to the Lessee of such date. The final partial month of this term shall be prorated.

2. Operation by Lessee

Section 13.g.8 of the original Agreement, is hereby modified to include:

Hours of Operation. In each location and on each day, Lessee shall operate during those hours as are necessary to adequately serve the public demand, as said demand may be determined and re-determined by the Director of Airports. Lessee may advise the Director of Airports regarding optimum hours of operation at each location.

Minimum Hours of Operation. Lessee shall be obligated to operate the facilities for the hours which are defined in this Section until such time as the Director of Airports requests that hours be extended or authorizes hours to be altered. The initial minimum hours each day shall be as follows:

> Facilities shall open one hour prior to the departure of the first scheduled flight of the day and shall remain open until after the last departure of the last scheduled flight of the day.

Curtailment of Hours Beyond Control. Lessee shall be excused from its obligations to meet the stated Minimum Hours of Operation in the event that its operations are closed or curtailed, in whole or in part, by reason of a strike, lockout or a cause beyond its control as determined by the Director of Airports.

Director of Airports May Alter Hours. Director of Airports may, on 48 hours notice to Lessee require earlier opening times or later closing times for any location. Lessee shall comply with said hours. Director of Airports may, from time to time, authorize a later opening or earlier closing time for any location, provided it first finds that Lessee has submitted adequate justification therefore.

3. Other Terms

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

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By_____
Carl Brewer, President
"LESSOR"

By_____
Victor D. White, Director of Airports

ATTEST:

HOST INTERNATIONAL, INC.
WICHITA, KANSAS

By _____

By_____
"LESSEE"

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