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C I T Y C O U N C I L

C I T Y O F W I C H I T A
K A N S A S

City Council Meeting
09:00 a.m. February 10, 2015

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 February 3, 2015

AWARDS AND PROCLAMATIONS

-- Proclamations:

American Heart Month
Jan Harrison Day

-- Service Award:

Morris W. Floyd

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 clerk 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.

None

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

None

IV. NEW COUNCIL BUSINESS

1. 2015 Community Services Block Grant Application.

   RECOMMENDED ACTION: Approve the 2015 Community Services Block Grant funding application and authorize the necessary signatures.

2. Request for Resolution of Support for Application for Housing Tax Credits: Sunnydale Pointe Apartments. (District VI)

   RECOMMENDED ACTION: Adopt the resolution of support for the application for Housing Tax Credits, subject to all local building and zoning codes, ordinances and any additional design review requirements, with partial waiver of the 20% market-rate unit requirement, to allow for a 10% market-rate unit requirement.

3. Second Amendment to Kansas Department of Health and Environment Consent Order CASE NO. 13-E-1 BOW.

   RECOMMENDED ACTION: Approve the second amendment to the Consent Order and authorize the necessary signatures; approve issuance of Requests for Proposals necessary to solicit work for Phase III improvement projects as summarized in this report to comply with the Schedule of Compliance contained in the amended Consent Order.

4. Quarterly Financial Report for the Quarter Ended December 31, 2014.

   RECOMMENDED ACTION: Receive and file the Quarterly Financial Report for the quarter ended December 31, 2014.

5. Acceptance of Donated Blackbear Bosin Mural.

   RECOMMENDED ACTION: Accept the donation of the mural entitled “From Whence All Life” by artist Frances Blackbear Bosin, valued at $185,000 based on Fair Market Value.

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. ZON2014-00031 – Zone Change from B Multi-Family Residential to LC Limited Commercial subject to Protective Overlay #294 on Property Located on the Northwest Corner of North Rock Road and East Douglas Avenue, 7802 East Douglas Avenue. (District II)

   RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the requested zone change and place the ordinance on first reading (simple majority vote); deny the requested zone change (two-thirds majority vote required) or return the application to the MAPC for reconsideration (simple majority vote).

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.

VI. NON-CONSENT HOUSING AGENDA

1. 2015 Flat Rent Schedule - Public Housing Program.

   RECOMMENDED ACTION: Approve the 2015 Flat Rent schedule for the Public Housing Program.

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 February 9, 2015.

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

2. Applications for Licenses to Retail Cereal Malt Beverages:

Renewal	2015	(Consumption on Premises)
Antanacia L. Ramirez	Mi Cosina**	2437 North Broadway

   **General/Restaurant (need 50% or more gross revenue from sale of food)

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

3. Preliminary Estimates:
   a. List of Preliminary Estimates.

   RECOMMENDED ACTION: Receive and file.

4. Petitions for Public Improvements:
   a. Petitions for Improvements to Cross Pointe Second Addition. (District II)

   RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

5. Statement of Costs:
   a. List of Statement of Costs.

   RECOMMENDED ACTION: Approve and file.

6. Agreements/Contracts:
   a. Sample Collection and Analysis for Brooks Landfill – Professional Services Contract. (District V)

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

7. Design Services Agreements:
   a. Design Services Agreement for Waterfront Seventh Addition. (District II)
   b. Supplemental Design Agreement No. 3 for Redbud Multi-Use Path. (District I)

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

8. Report on Claims for January 2015.

   RECOMMENDED ACTION: Receive and file.

9. Contracts and Agreements for January 2015.

   RECOMMENDED ACTION: Receive and file.

10. HOME Program: CHDO Funding Allocation, Mennonite Housing Rehabilitation Services, Inc. (District I)

    RECOMMENDED ACTION: Approve the funding allocation and authorize the necessary signatures.

11. HOME Program: Housing Development Loan Program Funding, Residential Housing Solutions. (District I)

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

12. HOME Program: Housing Development Loan Program Funding, Habitat for Humanity. (District I)

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

13. Sale of City-owned Property at Meridian and West Kellogg. (District III)

    RECOMMENDED ACTION: Declare the property as surplus and approve the proposed real estate agreement.

14. Amendment of Contract Legal Services.

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

15. Resolution Setting a Public Hearing for Consideration of a Project Plan, Tax Increment Financing for the Union Station Project. (District I)

    RECOMMENDED ACTION: Adopt the resolution setting a public hearing on March 17, 2015, for consideration of the Union Station Project Area 1 Plan and authorize the necessary signatures.

16. Emergency Manhole Repair at the Northwest Wastewater Treatment Plant.

    RECOMMENDED ACTION: Ratify the City Manager's emergency approval of the work and authorize the necessary signatures.

17. Emergency Raw Water Main Repair at the Water Treatment Plant.

    RECOMMENDED ACTION: Ratify the City Manager's emergency approval of the work and authorize the necessary signatures

18. Second Reading Ordinances: (First Read February 3, 2015)
    a. List of Second Reading Ordinances.

    RECOMMENDED ACTION: Adopt the Ordinances.

II. CONSENT PLANNING AGENDA ITEMS

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

19. *ZON2014-00028 – Request to Amend Protective Overlay #78 to Allow a Wireless Communication Facility with a 100-Foot Monopole on GC General Commercial on Property Generally Located North of MacArthur Road and Northwest of Kansas Highway K-42. (District IV)

    RECOMMENDED ACTION: Concur with the findings of the MAPC and approve the zoning and place the ordinance on first reading (simple majority vote required).

20. *VAC2014-00035 - Request to Vacate a Portion of a Platted Alley Generally Located South of 33rd Street North on the East Side of St Francis Avenue. (District VI)

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

21. *VAC2014-00040 - Request to Vacate a Portion of a Platted Sewer Easement, on Property Generally Located South of Central Avenue on the East Side of Oliver Avenue and the North Side of 2nd Street. (District I)

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

22. *VAC2014-00045 - Request to Vacate a Platted Easement on Property Generally Located on the Northwest Corner of 29th Street North and Ohio Avenue. (District VI)

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

23. *VAC2014-00046 - Request to Vacate Multiple Easements Dedicated by Separate Instruments on Property Generally Located East of Ridge Road on the North Side of 29th Street North. (District V)

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

24. *VAC2014-00047 - Request to Vacate a Portion of Platted Access Control on Property Generally Located on the Southeast Corner of 13th Street North and Tyler Road. (District V)

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

II. CONSENT HOUSING AGENDA ITEMS

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

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

RECOMMENDED ACTION: Approve submission of the 2014 Section 8 Management Assessment Program (SEMAP) certification and authorize the necessary signatures.

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.

26. *Pratt and Whitney Engine Services, Inc. Supplemental Agreement No. 4 - 1955 Midfield Road - Wichita Dwight D. Eisenhower National Airport.

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

27. *Emergency Fire Truck Repair - Wichita Dwight D. Eisenhower National Airport.

RECOMMENDED ACTION: Ratify the purchase.

28. *Wichita Dwight D. Eisenhower National Airport - Air Capital Terminal 3 Program - Change Order No. 21.

RECOMMENDED ACTION: Approve Change Order No. 21 and authorize the necessary signatures.

29. *General Services Administration U.S. Government Lease for Real Property - Terminal Building Office Space - Wichita Dwight D. Eisenhower National Airport.

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

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: 2015 Community Services Block Grant Application

INITIATED BY: Housing and Community Services Department

AGENDA: New Business

Recommendation: Approve the 2015 Community Services Block Grant funding application and authorize the necessary signatures.

Background: The Community Services Block Grant (CSBG) is a federal funding source which supports programs to address the needs of persons who have low incomes. In Kansas, CSBG funds are administered by the Kansas Housing Resources Corporation and are awarded by formula to Community Action Programs (CAPs) throughout the state. For over 30 years the City of Wichita has been a CAP and received CSBG funding for Wichita and Sedgwick County. The Wichita Sedgwick County Community Action Partnership (WSCCAP) is a division of the Housing and Community Services Department and administers the CSBG program locally.

The Community Services Block Grant Review Committee (Review Committee) is the official administering board for CSBG and as such is required to fully participate in the development, planning, implementation and evaluation of programs and operations supported by CSBG funds. These requirements are set forth in policies established by the Kansas Housing Resources Corporation (KHRC).

According to the U.S. Department of Health and Human Services, Community Services Block Grant funding is designed to alleviate the causes and conditions of poverty in communities. The Department further notes that CSBG funding supports projects that:

- Lessen poverty in communities
- Address the needs of low-income individuals including the homeless, migrants and the elderly
- Provide services and activities addressing employment, education, better use of available income, housing, nutrition, emergency services and/or health

Analysis: An annual application is required for receipt of CSBG funds. The process for completing an application begins when KHRC staff provides the WSCCAP with a preliminary budget allocation for the next year. Staff prepares and submits to the Review Committee, an analysis of prior year program expenses and outcomes, and anticipated needs for the next funding year. The Review Committee meets to discuss and prepare recommendations for the budget application. The recommendations are forwarded to the City Manager and City Council for final approval prior to submission to KHRC.

On December 2, 2014, KHRC advised that the 2015 CSBG anticipated funding amount for Wichita/Sedgwick County would be $898,406, which is $8,949 less than the 2014 allocation of $907,355. The KHRC also advised that the anticipated allocations are subject to adjustment following receipt of federal notification of the actual FFY 2015 award, however, grantees were told to prepare budget applications with the original estimate.

On January 8, and January 22, 2015, the Review Committee met to discuss funding for 2015. The following chart represents its final recommendations. A copy of the minutes from both meetings are attached to this agenda item.

	Current – 2014	**Proposed – 2015**
INTERNAL		
Activity		**Budget**
WSCCAP Staff	$428,766 *Salaries and benefits for 6 positions over a 12 month period.*	$371,088 *Salaries and benefits for 6 positions over a 10 month period.*
Office Operations *Includes rent, phone, IT charges, supplies, printing, CSBG report database*	$57,961	$56,090
Indirect *Formula-based payment per the cost allocation plan*	$24,954	$28,484
Client Support *To assist with soft costs for persons in employment and training (includes The Way to Work support for 14-15 year olds)*	$10,000	$16,175
The Way to Work – For Life *Salaries and support of summer youth workers 16-17 year olds*	NA	$40,895
EXTERNAL/CONTRACTS		
Project Access *Prescriptions and DME for clients, staff salaries and benefits.*	$175,000	$175,000
Employment & Training *Employment and training. Recommend a community-wide RFP*	$160,674	$160,674
Summer Activity Camps *2014's occurs summer of 2015. 2015 proposed to occur summer of 2016. Covers registration fees and weekly fees for participating youth*	$50,000	$50,425
Total	**$907,355**	**$898,831**

In making these recommendations the Review Committee expressed support for the new The Way to Work – For Life program for 16-17 year old youth that is proposed to be administered internally by the WSCCAP. The Review Committee recommended that should additional funds be made available to Wichita/Sedgwick County, that those funds be designated for youth activity – either Summer Activity Camps or The Way to Work – for Life programs, at staff's discretion.

*On January 29, 2015, staff was notified that the CSBG allocation would increase by $425. Following guidance from the Review Committee staff has increased the summer activity camp allocation by $425 to help offset a loss of revenue to that program from funds designated to serve homeless children.

The budget approval for 10 months was made due to the historical practice of external contracting agencies returning funds with less than one month left in the grant period. When that occurs, staff has to quickly identify areas where the funds can be re-allocated, and then transfer eligible costs to the grant in order to fully expend it. Those last minute adjustments will not be necessary if two months' administrative costs are left unfunded from the 2015 grant. The 10 month period for the 2015 grant ends on July 31, 2016. If funds are returned they will be allocated for remaining administrative costs. If the returned funds are not sufficient to meet all costs, or if there are no returned funds, expenses for August and September, 2016 will be charged to the 2016 grant which will be in place by that time.

The application must be submitted to KHRC by February 20, 2015.

Financial Considerations: No general operating funds from the City budget are obligated by the application.

Legal Considerations: The Law Department has approved the 2015 Community Services Block Grant application as to form.

Recommendation/Action: It is recommended that the City Council approve the 2015 Community Services Block Grant funding application and authorize the necessary signatures.

Attachments: Minutes of the January 8 and January 22, 2015 Community Services Block Grant Review Committee meetings (January 22, 2015 minutes have not yet been approved by the Review Committee).

Minutes of the
Community Services Block Grant (CSBG) Review Committee
Thursday, January 8, 2015, 11:30 a.m.
Greenway Manor Conference Room, Housing & Community Services Department
315 N Riverview; Wichita, Kansas 67203

MEMBERS PRESENT
June Bailey, Chair
Teresa Cook
Jerry Prichard
Sr. Karen Salsbery, Vice Chair
Nancy Wilhite
Bruce Gass
Denise O'Leary-Siemer, Secretary

STAFF PRESENT
Mary K. Vaughn, City of Wichita
Michelle Cole Rucker, City of Wichita
Donny Henning, City of Wichita
Taj Terry, City of Wichita
Sharene Thompson, City of Wichita
Ryan Tyree, City of Wichita

MEMBERS ABSENT
Joel Weihe
JohnWhitmer
Lynette Woodard
James Thompson
Pamela Williams

1. Meeting Call to Order, Introductions and Attendance Notifications

June Bailey	Bailey called the meeting to order at 11:35 a.m. A quorum was present. Bailey asked Michelle Cole Rucker if there were any attendance notifications from members not present at the meeting.
Michelle Cole Rucker	Rucker stated there were notifications from Joel Weihe, Pamela Williams, James Thompson, John Whitmer, and Lynette Woodard that they would not be present at the meeting.
June Bailey	Bailey asked that members and staff introduce themselves. The Community Action Promise was read aloud in unison.

2. Seating of New Committee Member

June Bailey	Bruce Gass, a new member, was selected via City Council appointment to replace the public sector position vacancy created by Jody Bennett. Bailey asked for a motion to seat Bruce Gass.
Motion--	Nancy Wilhite (Sr. Karen Salsbery) made a motion to seat Bruce Gass.
--Carried	The motion passed unanimously.

3. Approval of the Agenda

June Bailey	Bailey asked if there were any additions or recommended changes to the January 8, 2015 meeting agenda.
Michelle Cole Rucker	Rucker requested to add one Old Business agenda item: CSBG Review Committee Member Removal Consideration. She noted that this action was deferred from November 6, 2014 until the Committee received Mr. Whitmer's formal resignation.
June Bailey	Bailey asked for a motion to approve the January 8, 2015 meeting agenda with the one addition.
Motion--	Sr. Karen Salsbery (Bruce Gass) made a motion to approve the January 8, 2015 meeting agenda with one addition.
--Carried	The motion passed unanimously.

3. Approval of the November 6, 2014 Meeting Minutes

June Bailey	Bailey asked if there were any additions or recommended changes to the November 6, 2014 meeting minutes.
Teresa Cook	Cook noted that there was a typographical error on Page 5, Agenda Item 10. In the second paragraph, second sentence, "contact" should be "contacted".
June Bailey	Bailey asked for a motion to approve the November 6, 2014 meeting minutes with the one correction.
Motion--	Nancy Wilhite (Teresa Cook) made a motion to approve the November 6, 2014 meeting minutes.
--Carried	The motion passed unanimously.

OLD BUSINESS

4. CSBG Review Committee Member Removal Consideration

Michelle Cole Rucker	Rucker noted that per the Review Committee's request on November 6, 2014, she requested and obtained John Whitmer's voluntary resignation from the Committee. Mr. Whitmer felt that he would not be able to attend the bi-monthly meetings or fulfill Committee responsibilities due to his winning a Seat on the Kansas House of

Representatives. Rucker read the November 6, 2014 email between her and Mr. Whitmer stating that he had spoke with Council Member Jeff Blubaugh about finding a replacement for him on the Committee.

June Bailey — Bailey asked for a motion to accept John Whitmer's voluntary resignation from the Committee.

Motion-- Bruce Gass (Nancy Wilhite) made a motion to accept John Whitmer's voluntary resignation from the Committee.

Carried-- The motion passed unanimously.

5. CSBG FFY 2015 Non-Discretionary Formula Grant Application

Michelle Cole Rucker — Rucker noted that KHRC had issued instructions for submitting the FFY 2015 CSBG funds. The amount projected for WSCCAP is $898,406, which is $8,949 short from the FFY 2014 grant of $907,355. Staff reviewed the current budget and expenditure history from 2009 to 2014; provided a 2015 WSCCAP internal budget based on a 10-month and 12-month schedule; and a Summary of Findings from the 2013 United Way Community Needs Assessment. Staff noted that a 10-month internal budget would allow the CSBG budget to be more manageable in the future and possibly reduce the risk of returning funds to KHRC. A 12-month internal budget is typically submitted with the grant application. Staff also noted that the information provided was open for discussion and/or changes. Staff noted the community needs identified by the United Way Needs Assessment were (1) health insurance, (2) preparing young people for the workforce, (3) juvenile delinquency/gang prevention, and (4) basic medical care for low-income. The current budget and expenditure history provided information on all of the CSBG funded programs, and indicated if contractors had or had not been successful in spending total funds allocated. This was the case with Project Access for the last several years and with Workforce Alliance in 2014.

Rucker noted that the deadline for submitting the City's application to KHRC for 2015 CSBG funds is February 20, 2015. In order to comply with this deadline, the Wichita City Council must approve the submission no later than the February 10, 2015 council meeting.

June Bailey — After much discussion, Bailey reiterated the importance for Committee members to visit with their Council members on the decisions the Committee makes on funding priorities and the reasons for them. Committee members also requested that Anne Nelson, with Project Access, be invited to the March 12 meeting to discuss the Affordable

Care Act and its impact on the CSBG funded program, as well as address the trend in spending CSBG funds.

Mary K. Vaughn — Vaughn noted that Project Access had proposed a fund raising plan outside of the allocations they receive from the City, County and United Way, but wasn't sure of the status of the plan.

June Bailey — Bailey noted the recommended action for Agenda Item 5 was to identify funding priorities for staff to submit to the City Manager and City Council for approval and submission to the KHRC. She proposed the Committee reduce the current funding allocation for Project Access by the shortfall, $8,949, and the remaining external contracts remain the same as funded in 2014.

Mary K. Vaughn — Vaughn responded with good news that Community Development Block Grant (CDBG) funds would absorb $9,000 in costs for WSCCAP Administration of the TWTW summer youth employment program, so that there would not need to be any modifications in the 2015 budget. Vaughn also noted that staff would prepare a one-page summary of the 2015 budget recommendations for Committee members to use when they visit with their Council member.

June Bailey — Bailey asked for a motion to utilize the WSCCAP internal 10-month budget and remaining external contracts be funded as is currently.

Motion-- — Bruce Gass (Sr. Karen Salsbery) made a motion to utilize the WSCCAP internal 10-month budget and external contracts be funded as is currently.

--Carried — The motion passed unanimously. Staff was asked to contact Project Access for a presentation at the March 12 meeting.

6. CSBG FY2013 and FY2014 Expenditure Reports

Donny Henning — Henning provided an overview of the expenditure reports. He noted that all programs had expended 100% of their budgets, and the CSBG FFY 2013 grant had closed out before the due date of November 30, 2013. He also noted that the 2014 programs had started spending.

Michelle Cole Rucker — Rucker asked Committee if they wanted staff to go out for bid for the 2015 Employment & Training Contract or request sole source procurement?

June Bailey — After discussion, consensus was it might be advantageous to go out for bid. Bailey asked for a motion to go out for bid for the 2015 Employment & Training Contract.

Motion--	Denise O'Leary-Siemer (Bruce Gass) made a motion to go out for bid for the 2015 Employment & Training Contract.
--Carried	The motion passed unanimously.
June Bailey	Bailey noted that the recommended action for Agenda Item 6 is to receive and file reports.

7. CSBG Review Committee Attendance Report

June Bailey	Bailey noted that there is no action necessary for Agenda Item 7, as the report is provided for Committee member information. It was noted that Teresa Cook, Jerry Prichard and Nancy Wilhite had perfect attendance!

8. Next CSBG Review Committee Meeting

June Bailey	Bailey asked committee members if there would be a conflict with the next meeting being scheduled on March 12, 2015. No conflicts were expressed by committee members about the March 12, 2015 date. Bailey noted that the recommended action for Agenda Item 8 is to confirm or reschedule the next meeting on March 12, 2015 per PY 2014 Planning Calendar.

9. Adjourn

June Bailey	Bailey asked for a motion to adjourn the meeting.
Motion--	Denise O'Leary-Siemer (Bruce Gass) made a motion to adjourn the meeting.
--Carried	The motion passed unanimously. The meeting adjourned at 1:20 p.m.

Respectfully Submitted, Denise O'Leary-Siemer
Denise O'Leary-Siemer, CSBG Review Committee Secretary

January 15, 2015
Date

June Bailey
June Bailey, Chairperson

1-22-15
Date

Minutes of the
Community Services Block Grant (CSBG) Review Committee
Thursday, January 22, 2015, 11:30 a.m.
Greenway Manor Conference Room, Housing & Community Services Department
315 N Riverview; Wichita, Kansas 67203

MEMBERS PRESENT
June Bailey, Chair
Teresa Cook
Jerry Prichard
Sr. Karen Salsbery, Vice Chair
Nancy Wilhite
Bruce Gass
Denise O'Leary-Siemer, Secretary
James Thompson
Joel Weihe
Lynette Woodard

MEMBERS ABSENT
Pamela Williams

STAFF PRESENT
Mary K. Vaughn, City of Wichita
Michelle Cole Rucker, City of Wichita
Donny Henning, City of Wichita
Taj Terry, City of Wichita
Sharene Thompson, City of Wichita
Ryan Tyree, City of Wichita

1. Meeting Call to Order, Introductions and Attendance Notifications

June Bailey — Bailey called the meeting to order at 11:35 a.m. A quorum was present. Bailey asked Michelle Cole Rucker if there was an attendance notification from member not present at the meeting.

Michelle Cole Rucker — Rucker stated there was a notification from Pamela Williams that she would not be present at the meeting due to being out of town.

June Bailey — Bailey asked that members and staff introduce themselves. The Community Action Promise was read aloud in unison.

2. Approval of the Agenda

June Bailey — Bailey asked if there were any additions or recommended changes to the January 22, 2015 meeting agenda. There being no additions or changes, Bailey asked for a motion to approve the January 22, 2015 meeting agenda.

Motion-- — Bruce Gass (Sr. Karen Salsbery) made a motion to approve the January 22, 2015 meeting agenda.

--Carried — The motion passed unanimously.

3. Approval of the January 8, 2015 Meeting Minutes

June Bailey — Bailey asked if there were any additions or recommended changes to the January 8, 2015 meeting minutes. There being no additions or recommended changes, Bailey asked for a motion to approve the January 8, 2015 meeting minutes.

Motion-- Bruce Gass (Nancy Wilhite) made a motion to approve the January 8, 2015 meeting minutes.

--Carried The motion passed unanimously.

4. CSBG FFY 2015 Non-Discretionary Formula Grant Application

Michelle Cole Rucker — Rucker reviewed that KHRC had issued instructions for submitting the FFY 2015 CSBG funds. The amount projected for WSCCAP is $898,406, which is $8,949 short from the FFY 2014 grant of $907,355. She noted that the Committee had approved the proposed 10-month internal budget at the January 8, 2015 meeting that would allow the CSBG budget to be more manageable in the future and possibly reduce the risk of returning funds to KHRC. A 12-month internal budget is typically submitted with the grant application. Rucker noted that the 10-month internal budget and the 12-month external budget that the Committee had also approved at the January 8, 2015 meeting resulted in having a balance to be programmed of $40,895, which is good news! She noted that if staff had used a 12-month budget for internal and external costs, there would not have been any funds left over. Rucker apologized for not recognizing this balance at the January 8, 2015 meeting.

Rucker reiterated the two discussion and action items: (1) the Committee's recommendation on allocating the $40,895. Mary K. Vaughn will discuss a proposed program for the Committee's review and discussion; and (2) the Committee's recommendation for allocating any additional 2015 funds that might be received from KHRC.

In order to comply with the February 20, 2015 submittal date to KHRC, the Wichita City Council must approve the submission no later than the February 10, 2015 council meeting.

Mary K. Vaughn — Vaughn reviewed the current The Way to Work (TWTW) summer youth employment program which is for youth 14-15 years of age who live in a household that is a Public Housing tenant or whose family has received a Section 8 Housing Choice Voucher. She suggested that the CSBG remaining balance $40,895 could be used to hire 16 and 17 year old youth who were previously in the TWTW program as 14 and 15

year olds. The program would give an elevated work experience for possibly 20 youth. The positions would be competitive so they would have to interview for the positions and they would be paid at a rate higher than minimum wage, possibly $8.50 per hour. The Way to Work – For Life program would place the older youth at jobs with a higher level of responsibility either in City jobs or with outside partners. The mission is to reinforce what they have started and reward them for their success
This would be a one-year pilot program to determine the benefit of continuing in future years.

After Committee discussion, Vaughn said funds from the Community Development Block Grant (CDBG) would assist in hiring part time staff in conjunction with some assistance from the City's Management Fellow. The majority of the funds would be used to pay for youth wages.

June Bailey — After Committee review and discussion, Bailey asked for a motion to reflect the Committee's consensus to accept the proposal for TWTW – For Life.

Motion-- — Bruce Gass (James Thompson) made a motion to accept the proposal for TWTW – For Life and to delegate $40,895 to the program. Gass also suggested that staff invite some of the kids to a Review Committee meeting.

--Carried — The motion passed unanimously.

June Bailey — After Committee discussion on how to allocate additional funds if received, Bailey asked for a motion to reflect the Committee's consensus in allocating the funds in a program that would benefit the youth.

Motion-- — Sr. Karen Salsbery (Denise O'Leary-Siemer) made a motion to allocate additional funds if received where the need is the greatest between the youth programs: Summer Activity Camps or TWTW – For Life, at staff's discretion. Staff was asked to notify the Committee if additional funds are received and where the funds are allocated.

Carried-- — The motion passed unanimously.

Mary K. Vaughn — Vaughn noted that staff would prepare a funding summary for the Committee if they choose to speak with their Council Member. She noted that an article on Project Access was in the news today announcing that Sedgwick County had reduced their allocation to what the City allocates, $175,000. Vaughn indicated the summary would include Project Access' funding history. She also noted that Anne Nelson, Executive Director for Project Access, had requested a change

in the budget allocation to increase staff salaries and reduce the budget for prescriptions, which would better ensure they could spend out the entire allocation. Vaughn noted that staff is open to doing so after reviewing the percentages. Staff is waiting for a response from Anne Nelson. Vaughn reiterated that as requested by the Committee, staff would invite Anne Nelson to the March 12, 2015 meeting to discuss the Affordable Care Act and its impact on the CSBG funded program, as well as the trend in spending CSBG funds.

Sr. Karen Salsbery — Sr. Karen noted from experiences in her job that there is a gap between the low-income citizens who make too much to qualify for KANCARE, but not enough to qualify for the Affordable Care Act. This is the group that will benefit from the Project Access services.

5. CSBG FY2014 Expenditure Reports

Donny Henning — Henning provided an overview of the expenditure reports and noted no changes had occurred since the January 8, 2015 Committee meeting.

June Bailey — Bailey noted that the recommended action for Agenda Item 5 is to receive and file report.

6. CSBG Review Committee Attendance Report

June Bailey — Bailey noted that there is no action necessary for Agenda Item 6, as the report is provided for Committee member information.

7. Next CSBG Review Committee Meeting

June Bailey — Bailey asked committee members if there would be a conflict with the next meeting being scheduled on March 12, 2015.

Sr. Karen Salsbery expressed a conflict about the March 12, 2015 date, and would not be present.

Bailey noted that the recommended action for Agenda Item 7 is to confirm or reschedule the next meeting on March 12, 2015 per PY 2014 Planning Calendar.

8. Adjourn

June Bailey	Bailey asked for a motion to adjourn the meeting.
Motion--	James Thompson (Denise O'Leary-Siemer) made a motion to adjourn the meeting.
--Carried	The motion passed unanimously. The meeting adjourned at 12:10 p.m.

Respectfully Submitted, _____ _____
Denise O'Leary-Siemer, CSBG Review Committee Secretary Date

_____ _____
June Bailey, Chairperson Date

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Request for Resolution of Support for Application for Housing Tax Credits: Sunnydale Pointe Apartments (District VI)

INITIATED BY: Housing and Community Services Department

AGENDA: New Business

Recommendation: Adopt the resolution for the application for Housing Tax Credits, subject to all local building and zoning codes, ordinances and any additional design review requirements, with partial waiver of the 20% market-rate unit requirement, to allow for a 10% market-rate unit requirement.

Background: The Housing Tax Credit Program is administered by the Kansas Housing Resources Corporation. Enacted in the Tax Reform Act of 1986, the Housing Tax Credit Program is designed to secure private equity capital for the development of affordable rental housing. The Program can provide as much as 55%-60% of the total development cost, which reduces the amount of debt financing in affordable rental housing developments. This allows lower rents and greater affordability. The State receives a tax credit allocation from the Federal government, and requires developers/owners to obtain a resolution of support from the local government, when submitting applications for financing through the program.

The City has received a request from Zimmerman Properties, LLC for a City Council resolution of support for an application for 9% Housing Tax Credits in connection with the development and construction of the Sunnydale Pointe Apartments.

Under the City's adopted Housing Tax Credit (HTC) Policy developers/owners must present proposed Housing Tax Credit projects to the applicable District Advisory Board (DAB). The policy also requires a review by the City's Development Coordinating Committee (DCC). The Planning Department and the Metropolitan Area Building and Construction Department (MABCD) also review the project for zoning and design appropriateness and provide comments regarding consistency with neighborhood plans, if applicable. Once the project is reviewed by the DAB, DCC, Planning and MABCD, it is forwarded to the City Council for a public hearing, with a staff recommendation regarding the resolution of support for the Housing Tax Credit application.

Analysis: The proposed Sunnydale Pointe Apartments project is to be located on a tract of land with the approximate address of 600 W. 33rd Street North. According to the application, the proposed apartment project would offer 48 apartment units, including 24 two-bedroom apartments and 24 three-bedroom apartments within three buildings. Apartments will feature a living room, a dining room, two full size baths, and a fully-equipped kitchen. A washing machine and dryer will also be provided within each unit. The applicant also proposes to construct a clubhouse which will include a community room, a kitchenette, a computer work center/library, and an exercise room. Exterior common areas will include two children's "playscapes" as well as picnic tables and outdoor grills.

Preliminary tax credit rent amounts, net of utility allowances, are estimated to be between $455 and $584 for the two-bedroom units, and between $518 and $795 for the three-bedroom units. One unit is proposed to be offered to a homeless individual at zero rent.

The City's HTC Policy requires a set-aside of 20% of the units for market-rate tenants. The applicant is requesting partial waiver of this requirement, and is seeking to provide 10% of the units (five units) as market-rate units, citing extenuating circumstances related to market conditions. The applicant believes the market conditions support a deviation from the guideline because the additional income that could be generated from additional non-HTC units would be minimal, at best, and would not support additional debt service without a substantial waiver of the applicant's fee, which cannot be entirely recovered.

The Planning Department reviewed the proposed project and recommends adoption of the resolution of support for the application for HTCs, stating that the proposed project involves the infill development of vacant property and would be a positive addition to the neighborhood, and would also utilize available capacity in the City's existing public infrastructure. The property is zoned Limited Commercial (LC). The LC zoning district permits apartments at a density of up to 75 units per acre. The proposed project density is approximately 14 units per acre. The subject site is a portion of one very large platted lot in the Northgate Center Addition, recorded in 1964. The portion of the lot proposed for the apartments is undeveloped, while the western half of the lot is developed with a small shopping center with a different owner. Therefore, a lot split would be necessary in order to obtain a building permit.

The land to the north of the site is zoned Single-Family (SF-5), and is developed with single-family residences. The Planning Department report includes requirement of a six-foot high wooden fence, solid evergreen landscaping, or a landscaped berm, or some combination of the three is required to provide screening along the north property line, except when a 15-foot wide landscape buffer contiguous to the SF-5 zoned properties is provided. One shade tree and five shrubs for every 30 feet of abutting lot line or one shade tree every 20 feet meets the landscape buffer requirement. The proposed project will also trigger landscape ordinance requirements. Dumpsters and outdoor work areas are required to be located 20 feet from property zoned SF-5. Parking lot lighting poles, when located within 200 feet of residential use properties are limited to 15 feet in height or less. Building height is limited to 35 feet when located within 50 feet of SF-5 zoning.

MABCD reviewed the project proposal and the preliminary site plan. The proposed parking capacity is sufficient, but some of the Americans with Disabilities Act (ADA) parking spaces may require relocation in order to provide the shortest path of travel to a building entrance. Fair Housing Act provisions will apply to ground level units, with respect to accessibility, and the clubhouse will be subject to ADA provisions. MABCD also provided comments regarding the location of fire hydrants, and noted that the internal circulation drive must be 26 feet in width to accommodate fire department apparatus, based on the height of the structures. A storm water quality permit will be required, prior to the issuance of a building permit. The site is located within a protected "X" Federal Emergency Management Association (FEMA) flood zone.

DAB VI voted (5-0) to recommend adoption of the resolution of support, with partial waiver of the 20% market rate unit requirement. The DCC also voted to recommend adoption of the resolution of support with the partial waiver.

Housing and Community Services (HCS) staff believes that the proposed project will provide safe, clean, affordable rental housing, and recommends adoption of a resolution of support by the City Council with partial waiver of the 20% market rate unit requirement. HCS staff considers the applicant's request for the partial waiver to be reasonable, based on review of the applicant's pro forma financials and cash flow projections, and an informal survey of apartment rent amounts within the surrounding area.

The resolution of support will not constitute final plan or design approval. If the project is awarded Housing Tax Credits, the project developer must comply with all requirements associated with appropriate plan reviews required for issuance of a City building permit. These reviews will include compliance with the City of Wichita's Housing Tax Credit Policy design guidelines. Further, the developer must comply with any additional reviews that may be requested by the City Council member in whose district the proposed project is planned.

Vetting of the developer was conducted by Office of Urban Development staff. There were no outstanding issues noted.

Financial Considerations: The total project cost is estimated to be $5,900,000, including $4,200,000 in construction costs. The project will be financed with HTCs, a private bank loan, and deferred developer fees. The City will not be involved in the financing of the project.

Legal Considerations: The Law Department has reviewed the resolution and approved it as to form.

Recommendations/Actions: It is recommended that the City Council adopt the resolution of support for the application for Housing Tax Credits, subject to all local building and zoning codes, ordinances and any additional design review requirements, with partial waiver of the 20% market-rate unit requirement, to allow for a 10% market-rate unit requirement.

Attachment: Resolution

RESOLUTION NO. 15-037

A RESOLUTION ESTABLISHING SUPPORT OF THE DEVELOPMENT OF AFFORDABLE HOUSING IN THE CITY OF WICHITA, KANSAS.

WHEREAS, the City of Wichita, Kansas has been informed by Kansas Affordable Housing Corporation that a housing tax credit application will be filed with the Kansas Housing Resources Corporation for the development of affordable rental housing to be located on a site legally described as follows:

Lot 1, except the West 445 feet thereof, Northgate Center Addition, Wichita, Sedgwick County, Kansas

WHEREAS, this housing development will contain up to 48 apartment units including 24 one-bedroom units, and 24 three-bedroom units, a clubhouse/community building and children's play area, with 21 two-bedroom units and 22 three-bedroom units subject to the restrictions imposed by the Kansas Housing Resources Corporation, for purposes of enforcing the requirements of the Low-Income Housing Tax Credit Program.

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

That the Governing Body of the City of Wichita, Kansas supports and approves the development of the aforesaid housing in our community, subject to city ordinances and the building permit process. This Resolution is effective until February 10, 2017. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

This resolution does not constitute design or plan approval by the City of Wichita. The project design must comply with the City of Wichita's Housing Tax Credit Policy design guidelines, which will be determined by the Metropolitan Area Planning Department and the Metropolitan Area Building and Construction Department, after the project is approved for tax credits. During that review, complete building plans may be submitted to the Council Member, at the Council Member's request, prior to issuance of a building permit. All projects must comply with all applicable building codes, zoning codes, ordinances, and requirements.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, this 10th day of February, 2015.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Sharon L. Dickgrafe, Interim Director of Law and City Attorney

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Second Amendment to Kansas Department of Health and Environment Consent Order CASE NO. 13-E-1 BOW (All Districts)

INITIATED BY: Department of Public Works & Utilities

AGENDA: New Business

Recommendation: Approve the second amendment to Consent Order CASE NO. 13-E-1 BOW (Consent Order) and authorize the necessary signatures; approve issuance of Requests for Proposals (RFP) necessary to solicit work for Phase III improvement projects as summarized in the following analysis in order to comply with the amended Consent Order.

Background: The City Council approved the Consent Order on May 14, 2013. The Consent Order is an agreement between the City of Wichita and the Kansas Department of Health and Environment (KDHE) that resulted from a partially treated sewage discharge into the Arkansas River from Sewage Treatment Plant No. 2 on May 26, 2012. The purpose of the Consent Order is to ensure that proper steps are taken for identifying and mitigating risks to the Arkansas River and other waterways related to the City's wastewater and water treatment infrastructure.

The assessments and work under the Consent Order includes three phases:

- **Phase I** – Develop and implement a water quality monitoring plan
- **Phase II** – Develop a Capacity Management Operation & Maintenance (CMOM) Plan for Plant One and Two to identify risk reduction construction projects. This assessment identified 4 (four) main projects; 1) Plant 1 to Plant 2 66-inch force main condition assessment study; 2) Construct Emergency Power Generator Supply; 3) Ultra-Violet disinfection system upgrade at Plant 2; 4) Plant 2 headworks rehabilitation construction upgrade
- **Phase III** – Perform an Assessment of Plants 1, 3, 4 & 5 and sewage pump stations in the collection system

Phase I and Phase II of the Consent Order have either been completed or ongoing work is on schedule. Results of the Phase III Risk Assessment included two risk reduction construction projects: 1) roof replacement on the main pump station facility located at Plant 1; and, 2) rehabilitating the headworks and solids handling facilities at Plant 3. The City also agreed to provide a status report to KDHE regarding high risk asset improvements, lift station improvements, and the collection system CIP program. A Schedule of Compliance for completing the two improvement projects and reports has been negotiated with KDHE and will be included in the second amendment to the Consent Order.

Analysis: The second amendment to the Consent Order contains the Schedule of Compliance for Phase III risk reduction projects and meets requirements under the terms and conditions of Consent Order. The following table summarizes the Schedule of Compliance for Phase III improvement projects:

Phase III Improvement Projects	Start Issue RFP	End Complete Construction	Project Cost Estimate
1. Plant 1 Roof Replacement (Grove St Main Pump Station)	03/01/15	03/01/16	$ 350,000
2. Plant 3 Improvements	03/01/15	06/01/16	$ 2,355,000
2a) Evaluate and rehabilitate influent channels, isolation gate and grit removal system			
2b) Evaluate and rehabilitate aerated sludge holding and diffused air system; replace mixing equipment and reuse pumps			
Total Construction Costs			**$ 2,705,000**

Financial Considerations: Costs for Phase III improvement projects are estimated to total $2,705,000. The proposed Capital Improvement Program currently under development includes $4.5 million to cover improvements at Plants 1 and 3. These costs are covered by the existing rate structure, so approval of the recommended action will not lead to any future impact to customer rates.

Legal Considerations: The second amendment to the Consent Order has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the second amendment to the Consent Order and authorize the necessary signatures; approve issuance of Requests for Proposals necessary to solicit work for Phase III improvement projects as summarized in this report to comply with the Schedule of Compliance contained in the amended Consent Order.

Attachments: Second Amendment to the Consent Order CASE NO. 13-E-1 BOW.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF: CASE NO. 13-E-1 BOW

CITY OF WICHITA
WATER & SEWER DEPARTMENT
CITY HALL – 8TH FLOOR
455 NORTH MAIN STREET
WICHITA, KS 66801

KANSAS WATER POLLUTION CONTROL PERMIT NO. M-AR94-IO01
FEDERAL PERMIT NO. KS0043036

SECOND AMENDMENT TO CONSENT ORDER

The Kansas Department of Health and Environment (hereinafter referred to as "KDHE") and the city of Wichita (hereinafter referred to as "Respondent") mutually agree to a second amendment to the terms of Consent Order 13-E-1 BOW dated July 8, 2013 ("CO"), as amended on February 6, 2014 ("ACO").

The CO required the Respondent to complete a Capacity, Management, Operation, and Maintenance ("CMOM")-like assessment. The Respondent has completed the CO Attachment 1 - PHASE 1 and 2. The Respondent has completed the CMOM-like assessment of Plants 3, 4, 5, Lift Stations and the Collection System which was due to KDHE by December 31, 2014 per the CO, Attachment 1 PHASE 3, item 5. The Respondent has completed the assessment and provided the document and recommendations to KDHE. The parties hereby agree to the Schedule of Compliance (SOC) as incorporated below pursuant to the requirement of Attachment 1 PHASE 3, item 6 per the CO.

Schedule of Compliance - Phase 3 Improvement Projects	Begin Date	Completion Date
1. Plant 1 Roof Replacement	March 1, 2015	March 1, 2016
2. Plant 3 Headworks & Solids Treatment Improvements 2a. Evaluate and rehabilitate influent channels, isolation gate and grit removal system 2b. Evaluate and rehabilitate aerated sludge holding and diffused air system; replace mixing equipment and reuse pumps	March 1, 2015	June 30, 2016
3. Report on Programs 3a. Replacement of 65 Highest Risk Assets (including Lift Station Assets) 3b. Rehabilitate/Replace 23 Lift Stations 3c. Wastewater Collection System CIP program	Submit to KDHE by September 1, 2015	
4. Collection System Report that establishes a prioritization of improvements and/or repairs.	Submit to KDHE by September 1, 2015	

In addition, the ACO Schedule of Compliance Item 2 required the installation of two flow meters. One flow meter was installed but the second permanent flow meter cannot be installed until the 66 inch transmission line to Plant 2 has been assessed and possibly replaced. KDHE accepts the ISCO laser flow meter as a temporary meter until completion of the assessment of the 66 inch transmission line to Wichita Plant 2.

As stated in the ACO, KDHE agrees to change the TERMS AND CONDITIONS OF THE SETTLEMENT; Required Actions paragraph 27 B. to require the annual reports be submitted to KDHE by February 28th of each year for the previous calendar year.

This Second Amendment to the Consent Order ("SACO") shall be effective and incorporated into the CO as of the date signed by the Secretary of the Kansas Department of Health and Environment. All requirements of the CO not changed by this amendment remain in full force and effect.

The parties hereto have affixed their signatures on the dates inserted below to acknowledge their agreement to this SACO. The signatories to this SACO certify that they are authorized to execute and legally bind the parties they represent to this SACO.

City of Wichita

_____
Signature

_____
Name

_____
Title

_____
Date

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT:

_____
Susan Mosier, MD, Acting Secretary

_____
Date

Legal Services
1000 SW Jackson Street, Suite 560
Topeka, Kansas 66612

Kansas

Phone: 785-296-5334
Fax: 785-296-7119
mrosdahl@kdheks.gov

Robert Moser, MD, Secretary Department of Health & Environment Sam Brownback, Governor

July 11, 2013

Mr. Jeff A. VanZandt
Assistant City Attorney
City of Wichita – City Hall
13th Floor
455 N. Main
Wichita, Kansas 67202-1635

Re: City of Wichita
Kansas Water Pollution Control Permit #M-AR94-IO01
Federal Permit #KS0043036
KDHE Case #13-E-1 BOW

Dear Mr. VanZandt:

Enclosed please find your copy of the signed Consent Order in the above-referenced matter.

If you have any questions or require any additional information, please do not hesitate to contact Grant Harse at 785-296-1698.

Sincerely,

Melissa L. Rosdahl

Melissa L. Rosdahl
Office Manager

/mlr
enclosures

e/att: Shelly Shores-Miller

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF: CASE NO. 13-E-1 BOW

CITY OF WICHITA
WATER & SEWER DEPARTMENT
CITY HALL – 8TH FLOOR
455 NORTH MAIN STREET
WICHITA, KS 66801

KANSAS WATER POLLUTION CONTROL PERMIT NO. M-AR94-IO01
FEDERAL PERMIT NO. KS0043036

PROCEEDING UNDER K.S.A. 65-164(d), 65-170d and 65-171u

CONSENT ORDER

PRELIMINARY STATEMENT

The parties hereto, the Kansas Department of Health and Environment (KDHE) and the city of Wichita (Permittee) having agreed that settlement of this matter is in the best interests of both parties and conducive to protection of public health and the environment, hereby represent and state as follows:

STATUTORY AUTHORITY

1. The KDHE is a duly authorized agency of the State of Kansas created by an act of the legislature. The Secretary of the KDHE (Secretary) has general jurisdiction over matters involving the environment and the public health of the people of Kansas, K.S.A. 65-101 *et seq.*, including general jurisdiction of matters involving the discharge of sewage, K.S.A. 65-161 *et seq.*

2. K.S.A. 65-171a, Stream pollution detrimental to animal or aquatic life, states:

   "The authority of the secretary of health and environment in matters of stream pollution is hereby supplemented to include stream pollution found to be detrimental to public health or detrimental to the animal or aquatic life of the state."

3. K.S.A. 65-171d(c) provides that pollution means:

   "(A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated beneficial uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations."

4. K.S.A. 65-161 states, in pertinent part:

   "(a) "Waters of the state" means all streams and springs, and all bodies of surface and subsurface waters within the boundaries of the state;"

5. K.S.A. 65-164 states in pertinent part:

   "(b) For the purposes of this act, "sewage" means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry."

6. K.S.A. 65-164(d) states in pertinent part:

" . . . If the secretary of health and environment finds that any of the waters of the state have been or are being polluted in a manner prejudicial to the health of any of the inhabitants of the state, the secretary of health and environment shall have the authority to make an order requiring: (1) Such pollution to cease within a reasonable time; (2) requiring such manner of treatment or of disposition of sewage or other polluting material as, in the secretary's judgement, is necessary to prevent the future pollution of such waters; or (3) both. It shall be the duty of the person, company, corporation, institution, or municipality to whom such order is directed to fully comply with the order of the secretary of health and environment..."

7. K.S.A. 65-170(d) states in pertinent part:

"(a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect designated uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to:... (2) control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their designated uses..."

8. K.S.A. 65-171u, states in pertinent part:

"...Any person who violates any of the provisions of K.S.A. 65-161 to 65-171, inclusive, or any duty imposed therein or who violates an order or other determination of the secretary of health and environment or authorized representatives of such secretary made pursuant to the provisions of such sections, including the stipulations of conditions of a permit to discharge sewage, and, in the course thereof, causes the death of, or injury to, fish, animals, vegetation or other resources of the state whether natural or structural, or otherwise causes a reduction in the quality of the waters of the state below the standards set by the secretary of health and environment, thereby damaging the same, shall be liable to pay the state damages in an amount equal to the sum of money necessary to restock such waters, replenish or replace such resources and otherwise restore the stream, lake or other water source to its condition prior to the injury, as such condition is determined by the division of environment of the department of health and environment..."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. The Kansas Department of Health and Environment, KDHE, issued Kansas Water Pollution Control Permit M-AR94-IO01 (Permit) to the city of Wichita (Permittee), City Hall – 8th Floor, 455 North Main Street, Wichita, KS 66801 with an effective date of January 1, 2008 and an expiration date of December 31, 2012.

10. On May 25, 2012, Zachary Phillips, KDHE South Central District Environmental Scientist, received a complaint regarding dead fish at the 71st Street canoe launch on the Arkansas River, located in south Wichita. The complainant stated that there were at least 75 dead fish observed at the location and the Arkansas River had an offensive odor. The complainant stated that they visit this same site daily and this portion of the river was not like this on May 24, 2012. Mr. Phillips notified Jessica Mounts, Kansas Department of Wildlife, Parks & Tourism, and arranged for her to meet him and a coworker at the 71st Street Arkansas River site.

11. Zachary Phillips was accompanied by Heath Horyna, KDHE South Central District Environmental Scientist, to investigate the complaint. They first arrived at the Arkansas River at the 47th Street Bridge location and did not observe anything unusual. They then proceeded to the 71st Street river access point and did observe the fish kill. Mr. Phillips sent an email to his supervisors at 5:25PM that outlined the events of the afternoon. It stated the following:

"...At 1:17 p.m., we arrived at the canoe launch at 71st Street South. The number of dead fish would be hard to estimate, but I would say 1,000 or more (all species, all sizes). Approximately 6 staff from KDWP&T was there counting fish, along with 3 people from the City of Wichita. Samples [of river water] were collected.

At 2:11 p.m. we stopped along the 63rd Street Bridge in Wichita and noted a distinguished and pronounced discoloration in the water along the west side of the River, which was grey/dark brown and smelled like partially treated effluent. The dissolved oxygen at this location was much lower than the other areas sampled.

At 2:38 p.m. we arrived at [Wichita] Plant 2 and met with Sid Fleming [Superintendent of Sewage Treatment]. Samples of the effluent [which discharge just north of the 63rd Street Bridge] were collected and submitted to A&E Analytical laboratory. Wichita's Plant 2 effluent is light grey-brown and had a very strong smell. We had them [the city of Wichita] contact a lab to perform an Acute WET [Whole Effluent Toxicity] test. They are also going to start collecting E. coli, ammonia, and Total P [Phosphorus] on a daily basis..."

12. On May 25, 2012, Mr. Phillips and Mr. Horyna conducted a fish kill investigation. During the investigation process, they collected water samples from the Arkansas River and photographed the dead fish. They followed the discolored grey/dark brown water upstream and connected it with the city of Wichita's Wastewater Treatment Plant #2. Mr. Phillips and Mr. Horyna requested that the city of Wichita Plant #2 staff collect extra samples of the effluent wastewater due to the poor quality of the wastewater effluent and [Mr. Phillips and Mr. Horyna] collected their own samples.

13. The following is a table of the test results on the water samples collected on May 25, 2012 by Mr. Phillips and Mr. Horyna. The parameters analyzed were Biochemical Oxygen Demand (BOD), Ammonia, E coli and Total Phosphorus. Mr. Phillips and Mr. Horyna collected samples at the Lincoln Dam which is upstream from Plant #2, Plant #2 effluent, at 63rd Street (downstream of Plant #2) and 71st Street (further downstream of Plant #2). Please refer to Sample Location Map.

Location	BOD mg/l	Ammonia mg/l	E. coli cfu/100 ml	Total Phosphorus mg/l
Lincoln Dam (upstream of Plant #2) – downstream of dam	33	0.28	387	0.58
Wichita Plant #2 Effluent	42.6	11.3	2,420,000+	5.50
63rd Street (downstream of Plant #2)	58.3	12.0	2,420,000+	6.17
71st Street (downstream of Plant #2)	45.2	9.25	517,000	3.07
Typical Kansas Stream Concentrations	<5	0.15	5- 100	<0.1
Plant #2 Permit's Effluent Limitations for May	25	2.7	160	Monitoring (1.5 is high goal)

The results show higher than normal typical Kansas water quality in-stream concentrations and instream values higher than the required permit limitations.

14. On May 25, 2012, Ryan Waters and Jessica Mounts, Kansas Department of Wildlife, Parks and Tourism (KDWP&T) Biologists, conducted an analysis of the fish kill event. The outcome of their analysis, near the 71st Street River access point, counted approximately 831 dead fish ranging from juvenile fish to adult fish, from 1 inch to 44 inches in length. The outcome of their analysis for the 83st Street Bridge River access point counted approximately 54 dead fish ranging from juvenile fish to adult fish, from 1 inch to 24 inches in length.

15. KDHE - Bureau of Field Services evaluated the fish kill data and calculated the natural resource service losses to the Arkansas River. They concluded that there were significant fish losses that affected 3.8 miles of the Arkansas River.

16. On May 26, 2012, Wichita Plant #2 staff conducted a dye test to determine if the plant had a bypass. Wichita Plant #2, the subject of this order, receives primary settled wastewater from Wichita Plant #1. At the Plant #2 influent structure, there is a 72 inch gate valve that could be used to direct partially treated wastewater from Plant #1 around the Plant #2 treatment facility directly to the Arkansas River. The results of the dye test confirmed that partially treated wastewater was leaking through or around the gate valve on the 72 inch pipe between the intermediate pump station and the river outfall.

17. Zachary Phillips wrote a Fish Kill Investigation Report regarding the May 25, 2012 fish kill event. The report stated the following in the Summation of Investigation:

> "The May 25, 2012 Arkansas River fish kill incident was caused by a combination of two factors. The primary factor was the poor quality of wastewater effluent from the City of Wichita Plant 2 wastewater treatment plant. On May 26, 2012, the City of Wichita reported that a gate valve on a 72 inch pipe at Plant 2 was leaking partially treated wastewater from the intermediate pump station to the river outfall. This leak had been ongoing for an extended period of time. The second factor occurred when the City of Wichita restricted the flow of water in the Arkansas River from May 23rd to the 25th by raising the Lincoln Street Dam, causing the majority of the water in the Arkansas River downstream of 63rd Street South to be effluent from the City of Wichita Plant 2 wastewater treatment facility."

18. John Goetz, KDHE South Central District Environmental Engineer, summarized the flow data from Wichita Plant #2 and provided the following in a Wastewater Incident Report titled Wichita Lower Arkansas River Water Quality Reclamation Facility Plant No. 2. The report stated the following:

> "On May 26, 2012 Wichita discovered that the gate valve on a 72 inch pipe between the intermediate pump station and the river outfall was leaking partially treated sewage. This leak was not detected by routine sampling of outfall 001A1 because those samples are collected at the oxy charger basin [upstream of river outfall] and not at the river outfall. The leak was permanently plugged on June 1, 2012.
>
> The Wichita wastewater plant effluent flow averaged >30 MGD until 2010. Wichita conducted a study of flow data between January 1, 2010 and May 31, 2012 and concluded the following,
>
> > "Around June 19, 2010, effluent flows from Plant 2 begin to decrease despite relatively level flows from the Plant 2 influent side. Assuming relatively consistent flow, the gate structure may have started failing at this time. The flow data suggests that the gate structure's deterioration was slow but steady until sometime in May 2011. Flows then continued to decrease somewhat quickly through August 2011. After August 2011, the flow changes slowed with only a slight decline until late April 2012, where another significant drop is observed. The significant flow changes between January 2010 and May 2012 point to a catastrophic failure of the gate within the Effluent Manhole structure."
>
> A review of the June DMR flow data showed the effluent flow on June 1, 2012 was 14.84 MG which was the day the leaking valve was permanently plugged. This was the lowest flow reported for the entire month of June. The daily effluent flow has significantly increased since June 1, 2012. [The average flow rate for September 2012 was 33.84 MGD.]
>
> In conclusion, the leak at the gate valve between the intermediate pump station and the river outfall appears to have begun in June 2010 and was stopped June 1, 2012."

19. Based upon the above, the Secretary and Director find that the city of Wichita has violated the Permit, Kansas Statutes and Kansas Administrative Regulations by discharging partially treated wastewater to waters of the state resulting in a fish kill (K.S.A. 65-171d) and (K.S.A. 65-171u).

20. The parties have negotiated settlement of the issues raised herein and have reached agreement pursuant to the Terms and Conditions of the Settlement.

21. The KDHE has determined that settlement of this matter as set forth herein is consistent with the statutes and regulations controlling water pollution.

PARTIES BOUND

22. The Secretary of KDHE has authority and jurisdiction to issue this Consent Order (CO) and to enforce the same. In any action by KDHE to enforce the terms of this CO, the Permittee agrees not to contest the authority or jurisdiction of the Secretary of KDHE to issue or enforce this CO. The terms of this CO shall be construed pursuant to the laws of the state of Kansas.

23. This CO shall apply to and be binding upon the parties, their agents, successors, and assigns. The parties agree to undertake all actions required of them by the terms and conditions of this CO.

24. Notwithstanding the terms of any contract, the Permittee is responsible for compliance with this CO and for insuring that its contractors and agents comply with this CO.

25. This agreement is meant to be a full resolution of the matters set forth herein.

LIABILITY

26. Nothing in this CO shall be considered an admission of any fact or an acknowledgment of any liability by any party. Nothing herein shall be legally binding or have any effect on the position of the parties on any matter that may be included in any other agreements negotiated between them. Neither the State of Kansas, nor any agency thereof shall be held out as a party of any contract entered into by the Permittee in carrying out activities pursuant to this CO.

TERMS AND CONDITIONS OF THE SETTLEMENT

ORDER

27. Based upon the above-referenced Findings of Fact and Conclusions of Law and pursuant to the authority vested in the Secretary, Kansas Department of Health and Environment, under the above referenced statute, the city of Wichita is hereby ordered to:

Required Actions

A. The Permittee shall complete the schedule actions in Attachment 1 of this Order according to the schedule provided therein.

B. The Permittee shall submit a report by October 28th annually. The Annual Report will summarize the expectations for the previous reporting period, the activities completed from October the previous year through September of the current year and a proposed schedule of activities for the following year which will set the basis for negotiations during the 4th quarter annual meeting. The first Annual Report shall be submitted by October 28, 2013 and continuing yearly until the project has been completed.

C. Meetings between KDHE staff and the city of Wichita will take place in the 4th quarter (October, November or December) annually. The annual meetings will review the progress by the City from the previous year and negotiate required activities for the following year.

D. By August 1, 2013, provide KDHE with an engineering report providing a plan and schedule to upgrade the plant's process equipment so as to achieve routine operations to comply with the provisions in permit
M-AR94-OO05.

E. All proposed schedules and activities are subject to KDHE approval.

Penalty

28. Based upon the above-referenced Findings of Fact and Conclusions of Law and pursuant to the authority vested in the Director, Division of Environment of the Kansas Department of Health and Environment under K.S.A. 65-170d, it is hereby ordered:

A. The city of Wichita and KDHE have agreed that the civil penalty of $455,000 assessed from the violations cited herein shall be directed to a Supplemental Environmental Project (SEP) that will be beneficial to Waters of the State and protection of human health. The general provisions of the SEP have been included as Attachment 1 and also in the Terms and Conditions of the Settlement provided above.

B. In addition to the requirements of paragraph 28. A. above, upon execution of this order, the city of Wichita shall remit to the State of Kansas restitution in the amount of $243,195 for lost and damaged resources.

C. The restitution shall be paid by check, written to the KDHE - Division of Environment, and sent to the Office of Legal Services, Kansas Department of Health and Environment, 1000 SW Jackson St., Suite 560, Topeka, Kansas 66612-1368.

FORCE MAJEURE, EXCUSABLE DELAY, MODIFICATION

29. The following shall constitute the governing terms for force majeure, excusable delay and modification of the CO.

(A) The Permittee shall perform the requirements under this CO within the time limits set forth herein unless the performance is prevented or delayed solely by events which constitute force majeure. For purposes of this CO, a force majeure event is defined as any event beyond the control of the Permittee which could not be overcome by due diligence and which delays or prevents performance by a date required by this CO. Such events do not include increased costs of performance or changed economic circumstances. Any delay caused in whole or in part by action or inaction by state or federal authorities shall be considered a force majeure event but shall not extend the period of performance of the obligation required by the CO by more than the period of delay.

(B) The Permittee shall have the burden of proving all claims of force majeure. Failure to comply by reason of force majeure shall not be construed as a violation of this CO.

(C) The Permittee shall notify KDHE in writing within seven (7) days after becoming aware of an event which the Permittee knew, or should have known, constituted force majeure. Such notice shall estimate the anticipated length of delay, its cause, measures to be taken to minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this section shall constitute a waiver of the Permittee's right to assert a force majeure claim and shall be grounds for KDHE to deny the Permittee an extension of time for performance.

(D) Within seven days of the effective date of written notice from the Permittee of a force majeure event, KDHE shall notify the Permittee of the extent to which modifications to this CO are necessary. In the event that KDHE and the Permittee cannot agree that a force majeure event has occurred, or if there is no agreement on the length of the extension, the dispute shall be resolved as set forth in the paragraph denominated Dispute Resolution.

(E) Any modifications to any provision of this CO shall not alter the schedule for performance or completion of other tasks required by this CO unless specifically agreed to by the parties in writing and incorporated into this CO.

(F) This CO may be amended by mutual agreement of KDHE and the Permittee. Such amendments shall be in writing, shall have as their effective date, the date on which they are signed by both parties and shall be incorporated into this CO.

DISPUTE RESOLUTION

30. The parties recognize that a dispute may arise between them regarding implementation of the action to be taken as herein set forth or other terms or provisions of this CO.

(A) If such dispute arises, the parties will endeavor to settle it by informal negotiations between themselves. If the parties cannot resolve the issue informally within a reasonable period of time, either of the parties may notify the other in writing stating its position with regard to the dispute and the reasons therefore. A party receiving such a notice of dispute will respond in writing within ten (10) working days stating its position. KDHE or the Permittee shall then have an additional ten (10) working day period to respond. If the parties are still unable to reach an agreement, the matter shall be referred to the KDHE Director of the Division of Environment, who shall decide the matter and provide a written statement of his decision, which shall be incorporated into the CO. The parties agree that any such action shall be deemed a final agency action and shall be subject to judicial review under the Kansas Administrative Procedures Act and the Kansas Act for Judicial Review of Agency Actions.

(B) This dispute resolution procedure shall not preclude any party from having direct recourse to court if otherwise available by applicable law.

OTHER CLAIMS AND PARTIES

31. Nothing in this CO shall constitute or be construed as a release for any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation not a signatory to this CO for any liability it may have arising out of or relating in any way to the subject violations alleged in this CO.

EFFECTIVE DATE, TERMINATION

32. This Consent Order shall become effective when signed by the Secretary of the Kansas Department of Health and Environment.

33. This CO will be terminated upon written notice by KDHE to the Permittee that the TERMS AND CONDITIONS OF THE SETTLEMENT have been completed. Such notice shall not be unreasonably withheld by KDHE.

AUTHORIZATION OF SIGNATORIES TO EXECUTE THE CONSENT ORDER AND BIND THE PARTIES

The parties hereto have affixed their signatures on the dates inserted below to acknowledge their agreement to this CO. The signatories to this CO certify that they are authorized to execute and legally bind the parties they represent to this CO.

PERMITTEE

Signature

6/13/13
Date

Robert Layton
Printed Name

City Manager
Title

City of Wichita
Organization

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

John W. Mitchell
Director, Division of Environment
Kansas Department of Health and Environment

6/21/13
Date

Robert Moser, MD, Secretary,
Kansas Department of Health and Environment

7/8/13
Date

Attachment 1
Schedule of Compliance

Action	Required Date
PHASE 1	
1. Develop and submit a plan to KDHE for approval for a water quality monitoring network along the Arkansas River and within the Wichita city limits with a purpose of identifying impacts to the River potentially attributable to City of Wichita infrastructure.	July 1, 2013
2. Implement the water quality monitoring network approved in Item 1 of this Schedule of Compliance.	September 1, 2013
PHASE 2	
3. Complete a Capacity, Management, Operation, and Maintenance (CMOM)-like assessment for assessing Wichita Wastewater Treatment Plant 2 and develop a final report of the assessment. The final report shall be submitted to KDHE for approval and shall contain a proposed schedule of compliance for completing construction of risk reduction projects indentified in the report.	December 31, 2013
4. Meet with KDHE and negotiate a final Schedule of Compliance for Phase 2 Item 3, above, as Required by Consent Order 13-E-1 BOW.	December 31, 2013
PHASE 3	
5. Complete a Capacity, Management, Operation, and Maintenance (CMOM)-like assessments for Wichita Wastewater Treatment Plants 1, 3, 4, 5, and the City's wastewater pump/lift stations. Complete a risk assessment for the City's wastewater collection system and those components of the Water Treatment Plant that could pose a potential threat of discharge into the Arkansas River. Develop a final report of the assessments. The final report shall be submitted to KDHE for approval and shall contain a proposed schedule of compliance for completing construction of risk reduction projects identified in the report.	December 31, 2014
6. Meet with KDHE and negotiate a final Schedule of Compliance for Phase 3 Item 5, above, as Required by Consent Order 13-E-1 BOW.	December 31, 2014

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Quarterly Financial Report for the Quarter Ended December 31, 2014

INITIATED BY: Department of Finance

AGENDA: New Business

Recommendation: Receive and file the Quarterly Financial Report.

Background: The Finance Department prepares quarterly unaudited financial reports to monitor and review the financial activities of the operating and capital funds. The report is presented to provide the City Council and citizens with information that will assist in making informed decisions. The report is available on the City's website. Citizens may obtain a printed copy by contacting the Department of Finance at 268-4651.

Analysis: Comparisons of budgeted amounts to actual revenue and expenditures are provided for each operating fund. In addition, financial statements prepared on an accrual basis are presented for enterprise, internal service and pension trust funds, consistent with generally accepted accounting principles. The Quarterly Financial Report does not reflect all the transactions and adjustments that relate to activities through December 31, 2014. The 2014 Comprehensive Annual Financial Report will incorporate all transactions and adjustments upon completion of the financial audit.

Financial highlights are summarized beginning on page iii, with financial statements beginning on page 1. Supplementary information, including information on the performance of invested funds, capital projects currently underway, and a quarterly summary of disadvantaged and emerging business activity is presented in the final section of this report.

Financial Considerations: The Director of Finance will provide a financial overview at the City Council meeting.

Legal Considerations: There are no legal considerations.

Recommendations/Actions: It is recommended that the City Council receive and file the Quarterly Financial Report for the quarter ended December 31, 2014.

Attachment: Quarterly Financial Report

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Acceptance of Donated Blackbear Bosin Mural (All Districts)

INITIATED BY: Division of Arts and Cultural Services

AGENDA: New Business

Recommendation: Approve the donation of the Blackbear Bosin mural.

Background: Frances Blackbear Bosin was a Native American Indian artist who rose to prominence after winning the prestigious Philbrook Museum, Tulsa, Oklahoma art competition in 1955. Blackbear Bosin is the artist who created the Keeper of the Plains which is currently installed at the confluence of the Arkansas River in Wichita. The acrylic mural on canvas titled "From Whence All Life" was commissioned by the Farm Credit Bank in Wichita, KS and unveiled in 1972.

Analysis: The current owner of the Farm Credit Bank building, CoBank, FCB, approached the City in September of 2014 with the offer to donate the artwork to the City. An independent appraisal was conducted in November 2014 by Bull Market Antiques, John Boldenow, C.A.G.A.

The donated mural is slated to be moved from CoBank at 245 N. Waco on February 21, 2015. The mural will be on permanent loan to the Mid-America All-Indian Center where it will be installed in the museum with an unveiling ceremony to be held on March 13, 2015.

Financial Considerations: The mural was appraised at $185,000 based on Fair Market Value and will be added to the public art collection currently owned and maintained by the City.

Legal Considerations: The Donation of Receipt of Artwork has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: It is recommended that the City Council accept the donation of the mural entitled "From Whence All Life" by artist Frances Blackbear Bosin, valued at $185,000 based on Fair Market Value.

Attachments: Receipt of Donation of Artwork
Photo and description of artwork

“From Whence All Life” by Frances Blackbear Bosin, 1972

The American Indian who maintains close ties with his own tribal culture conceives of the universe as a totality. He has the greatest respect and reverence for this universe as a whole and for the parts that comprise it. This intense feeling for the world as he knew it was a part of the Indian religion that made it inseparable from the individual. The artists and craftsmen – for they were one and the same, whether male or female – expressed this feeling in the form, the colors and the patterns of their work. So it is with this painting. It reflects the passion of the artist for a complete and beautiful way of life and thought now almost totally extinguished. It also reflects his great reverence for a Creation, timeless and immortal, maintaining its own inherent divine qualities though now transformed and degraded.

Because this mural was commissioned by the Farm Credit Bank of Wichita, which serves the states of Kansas, Oklahoma, Colorado and New Mexico. The artist sought to depict a philosophy common to this area in the pre-white times; although this philosophy found different expression in the cultures of the Great Plains and the Southwest.

The design in the central portion of the mural represents the embodiment of Mother Earth and the Sun so venerated by the American Indian. To the artist, these entities are reciprocal as, in his words, “The energy of the sun would have no reason for being if the earth did not exist to receive it, and, in return, the earth would be nothing without the Sun.”

The rest of the mural is a manifestation of Mother Earth’s response to the energy that the sun gives. Although the Sun-Mother figure is at the center of the paining, this is not the focal point. There is no one point of interest. Mother Earth is everywhere, and the other areas of the painting portray regional interpretations of a common philosophy.

The right-hand portion of the mural pertains to the Indian of the Great Plains. The standing figure represents the Great Life Giver, often referred to in the white man's language as the Great Spirit, who gave the tribes of the Plains all the good things which they had. The best of his gifts was the buffalo which was everything to the Indian: food, clothing, shelter and medicine.

For the Indian, all nature is divided into four elements – fire, earth, air and water. All of these are represented in the painting. The figure of the Great Life Giver is standing on fluid lines representing water. Air is represented by the purple flowing lines over his head. All these things are good.

The small area in the lower right corner is grim or even macabre. The buffalo are gone now, purposely killed off by the white man. The burial platform, with the corpse shrouded in a sacred white buffalo robe, reminds us of what has happened since the time when the people were one with Mother Earth and brothers of all other creatures. But the poles of the scaffold have roots, indicating that there is still great depth to the culture of the American Indian.

The tipi is another aspect of the same idea. It is tattered; the poles are blackened with fire and some are broken. Even so, there is enough remaining to build again. There is no special meaning to the symbols on the tipi, but there is a shield hanging on the scaffold which has a symbol on it – two bear paws reaching toward the center. According to Kiowa thinking, the bear was really a sacred person and they would never harm it in any way. The paws facing inward rather than outward symbolize the power that still remains with the Indian people.

There are several symbolic patterns in the quillwork on the moccasins worn by the standing figure. The red triangular areas indicate buffalo tracks and the three blue squares indicate the sky. Toward the back is the symbol for mountains or hills. This mountain symbol is also on the gauntlets, the armband and the braid tie. The colors of the quillwork depict those of the natural dyes most prevalently used.

Birds and their feathers played a very significant part in the life of the American Indian. The bird in the painting is not intended to any particular bird but represents a composite of the birds that have helped man. The scissor-tailed fly-catcher, for example, whose feathers the Great Life Giver wears in his hair, was believed to have assisted man by carrying his prayers. The lightening flashing from the eye of the mythical bird represents his power, most often manifested in thunder and life-giving rain.

The flow of the painting leads us from right to left toward the ruins of an ancient village, indicating that long ago there were well developed American Indian cultures that evolved, flourished and disappeared in accordance with their own patterns.

The symbolism of the Native American cultures of the Southwest has been utilized to depict the intense feelings about the world found there. The American Indians, depending on where they made their homes, utilized for their artistic expression whatever materials they had at hand. The clay for pottery, the grasses for baskets and the animal fiber for wearing robes- whatever the environment offered – was transformed into articles of beauty reflecting the artist's expression of the interaction of all created things with the Creator of all things. The medicine man of the

desert used colored sands as well as flower pollen, flower petals, ground cornmeal, roots, barks and crushed berries in making the designs necessary in his curing ceremonies so that the harmony of a patient with the natural forces so vital to his, his family's and his tribe's well-being might be restored.

The two dominant figures are those of Father Sky and Mother Earth, who are the source of all life. Sacred plants – corn, squash, beans and tobacco – appear on the blue body of Mother Earth, symbolizing the fertility of her womb, the source of the seed of all living things. Each plant has three roots, one for each of the mineral, vegetable and animal kingdoms which make up the world. The roots emanate from a black and red circle representing a lake of pure water, the passage from the underground regions from which all Indians came.

On the black body of Father Sky are the blue mask of the sun and the white mask of the moon. The white spots are the constellations and the zigzags crossing his shoulders, arms and legs from the Milky Way. Father Sky and Mother Earth, connected with a yellow path of pollen symbolizing prayer, cannot exist without each other – they are one. The crossing of their hands symbolizes their union. Their masked faces are striped with dawn (white), day (blue), night (black) and the all sacred pollen (yellow). Prayer feathers are tied to the top of each of their masks with cotton thread.

The legs and uncrossed arm of each figure flow into ribbons, activating the components of the world which they represent. Mother Earth paints the distant hills and buttes of her territory with hues of purple and lavender. Waves of blue depict the colors of the sky as they change from dawn until dark.

The Rainbow Guardian, responsible for the moisture in the air and abundance on the earth, binds Father Sky and Mother Earth eternally together, acting as a physical as well as a spiritual bridge between them. The orange-red stripe of the Rainbow Guardian represents the warlike guardianship of the male, and the blue-green strip denotes the more peaceful protection of the female. In ceremonies connected with vegetation, a medicine man will draw a white line of pollen in the center of the rainbow.

There are five feather-like projections at each end of the Rainbow. Five are white and five are black, symbolizing night and day, darkness and light, evil and good, positive and negative, man and woman, birth and death and the other things of opposite nature that make up the world.

A bat, sacred messenger of the spirit of the night, acts as a guard while carrying a medicine bag filled with pollen. The sun's medicine bag dances over the head of Father Sky, deriving from the constellations its power to heal.

The four red, grey and white circles, in divisions of four, represent the four, four-fold aspects of the Indian world – the four cardinal points, the four elements, the four seasons of the year, and the four ages of man.

Receipt for Donation of Original Works of Art

The City of Wichita, Kansas, a municipal corporation, acknowledges the receipt this day of the gracious gift of a mural on canvas, created and completed by, Francis Blackbear Bosin, in 1972 titled "From Whence All Life" from by CoBank FCB, 5500 S. Quebec Street, Greenwood Village, CO 80111.

CoBank FCB acknowledges that this is a completed gift of the entire interest in this work of art, without limitation, condition or restriction of any kind. The City and CoBank FCB agree that delivery of this work of art is complete.

CoBank FCB agrees that as donor, if they wish to claim this gift as a charitable donation for federal income tax purposes, that it was their responsibility to obtain an independent appraisal of this work. The appraisal was completed by Bull Market Antiques, John Boldenow, C.A.G.A., on November 7, 2014. Appraised value of this donation is $185,000 based on Fair Market Value.

The City agrees to complete a donee acknowledgement, IRS Form 8283, upon request.

_____ _____

Date Robert Layton, City Manager

City of Wichita
455 North Main
Wichita, Kansas 67202

City of Wichita
City Council Meeting
February 10, 2014

TO: Mayor and City Council

SUBJECT: ZON2014-00031 – Zone Change from B Multi-Family Residential to LC Limited Commercial subject to Protective Overlay #294 on Property Located on the Northwest Corner of North Rock Road and East Douglas Avenue, 7802 East Douglas Avenue (District II)

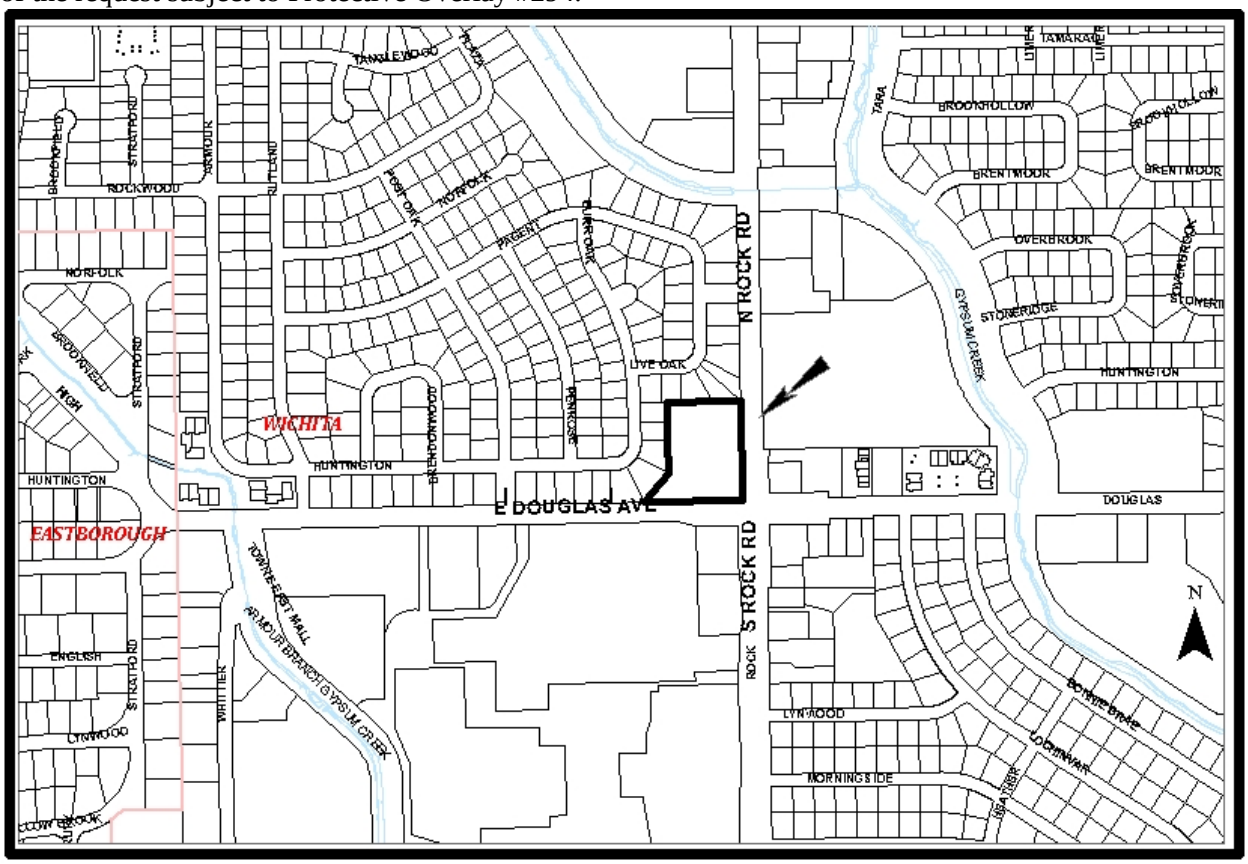
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendation: The MAPC recommended approval (9-0) of the request subject to Protective Overlay #294.

DAB Recommendation: District Advisory Board II voted 8-1 to approve the request subject to a modified Protective Overlay #294.

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request subject to Protective Overlay #294.



Background: The applicant is seeking to rezone the northwest corner of North Rock Road and East Douglas Avenue (7802 East Douglas Avenue) from the B Multi-Family Residential (B) district to the Limited Commercial (LC) district. The site contains 3.74 acres that were developed with a 104-unit apartment complex built sometime shortly after 1968. If the request is approved, the applicant intends to redevelop the site to permit a wider range of uses than just residential uses. (See item A below for the proposed list of allowed uses.) The site has three access points; two on East Douglas Avenue and one on North Rock Road. On Douglas Avenue platted access control allows two driveways to be located 150 feet west of Rock Road. On Rock Road platted access control allows two driveways to be located 150 feet north of Douglas Avenue. A six-foot tall wood fence is located along the southwest, west and north property line. A masonry fence is located along the east property line that abuts Rock Road, and along a 10 to 15-foot segment of East Douglas Avenue located just west of Rock Road. The property is platted as Rockwood Reserve 'A' Addition. A platted eight-foot wide utility easement is located along the southwest, west and north property boundary. A 30-foot wide Continental Pipeline easement is located along Rock Road.

The applicant is offering the following development standards (Unified Zoning Code (UZC) comparisons and staff recommendations and comments are provided in italics, underlined or struck-through):

A. Uses permitted shall be limited to the following LC Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, medical services, convenience store, general office, personal care service, personal improvement service, restaurant provided the restaurant does not exceed 8,000 square feet in size and general retail. The following uses are specifically prohibited: retail liquor store, nightclub in the city, drinking establishment or tavern, entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans. All buildings within the subject property shall share a uniform architectural character, color and the same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material. *The LC district permits by right 56 retail, commercial, office and residential uses. Drive-thru restaurant and convenience store should be prohibited given the small size of the site, and the close proximity of single-family and two-family uses. Drive-thru restaurants and convenience stores have the capacity to generate increased levels of noise due to order boards and gas pump speakers and significant amounts of debris and litter.*

B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance unless modified by another provision of this Protective Overlay. *The requirements of the Landscape Ordinance are triggered when redevelopment costs exceed 50 percent of the site's appraised value or when new parking spaces are installed. The requirements of the Landscape Ordinance are divided between three areas. A minimum amount of landscaping (landscaped street yard) is required to be installed in front of the front façade of the buildings. A landscape buffer of one tree per 40 feet is required where nonresidential uses abut residential uses. Parking spaces located within 150 feet of a street are required to be screened with plants that will ultimately be three feet tall.*

C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials. *Required by the Landscape Ordinance.*

D. Screening along the north, west, and southwest property lines where adjacent to residential zoning shall be provided by an eight-foot high concrete/masonry wall. The solid wall shall be constructed of a pattern and color that is consistent with the building walls. *The proposed masonry wall exceeds the screening typically required by just a zone change. The proposed screening wall will have to be located outside of the utility easement located along the north, west and southwest property lines.* Occupancy permits shall not be issued until a landscaping and screen plan has been approved by the Planning Director. Landscaping shall be installed prior to occupancy.

E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks. Lighting on buildings must be directed down, away from abutting and

adjacent residentially-zoned properties. *The UZC requires light poles located within 200 feet of residential uses to be not taller than 15 feet, including base, and requires light fixtures to keep light from trespassing onto abutting property.*

F. Building setbacks shall be a minimum of 15 feet along the north, 50 feet along the west and southwest property lines, and 35 feet along the arterial frontages. *Basic building setbacks in the LC district are: front (south property line)-20 feet; rear (north property line)-10 feet; interior side (west property line)-zero or five feet; street side (east property line)-10 feet; however, compatibility setbacks for a site as large as the subject tract, which overrides base zoning district minimums, require 25-foot building setbacks along interior side (west) and rear (north) yards adjacent to single-family or two-family zoning. The applicant's proposed 15-foot setback along the north property line should be 25 feet.*

G. Maximum building height is limited to 35 feet. *The LC district permits building heights up to 80 feet by right and taller buildings with greater than minimum building setbacks. Without the proposed height limitation, UZC compatibility height standards would allow buildings located over 50 feet from the north and west property line to increase in height above 35 feet at the ratio of one foot in height for each additional three feet of setback over 50 feet.*

H. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade. *Complies with UZC requirements*.

I. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces any property in a residential zoning district located north or west of the subject site. All signs and building signs facing west and north towards residentially-zoned properties are prohibited. Signs shall be monument type, as permitted by the sign code in the LC zoning district. *The LC district allows signs to be up to 25 feet in height, and up to 35 feet if the maximum number of signs allowed are not installed. The placement of video board signage and/or electronic message boards should be restricted to the Rock Road frontage and should be mounted no higher than 15 feet.*

J. All utilities will be located underground.

K. Outdoor speakers and sound amplification systems shall not be permitted, with the exception of restaurant order boards. No order boards are permitted in setbacks. *Staff recommends no drive-thru restaurants be allowed, which would eliminate the need for order boards.*

L. Deliveries and trash service shall be between the hours of 6:00 a.m. and 10:00 p.m.

M. A site plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits. The site plan shall ensure internal circulation within the parcel(s). In the event there is a full turning movement drive to Rock Road, the applicant shall provide a guarantee for the construction of a raised median within Rock Road. *The traffic engineer will support a full movement driveway in the northern segment of the Rock Road frontage and right-in/right-out drive with a raised median in the southern segment of the Rock Road frontage.*

Properties located to the north and west of the application area are overwhelmingly zoned Single-Family Residential (SF-5) and developed with single-family residences. There is one ownership abutting the north property line of the application area that is zoned Two-Family Residential (TF-3) and developed with a duplex. Properties located east, across Rock Road, are zoned B and LC, and are developed with an apartment complex and retail and office uses. Land located south of the subject site, across Douglas Avenue, is zoned LC subject to the development standards contained in Community Unit Plan DP-12, and is developed with Towne East Mall, a regional shopping center.

If 30 percent of the site were developed with 48,874 square feet of retail sales the site could generate an estimated average daily traffic volume of 2,052 trips. During peak hours, a convenience store can generate 79 to 97 average daily vehicle trips per 1,000 square feet. Using the previously noted traffic generation rates, a 5,800 square-foot convenience store could generate 458 to 562 average daily vehicle trips during the peak hour.

Analysis: On January 7, 2015, District Advisory Board (DAB) II reviewed the application. They heard from at least three citizens who expressed concerns regarding blowing trash and odor emanating from Towne East Mall and about gasoline storage tanks if a convenience store was permitted. Noting that the homeowners' association would not meet until later in the month, the DAB voted 7-0 to defer action to the DAB's February 3 meeting. At the February 3 DAB meeting, the DAB voted 8-1 to approve the request; however, the DAB voted to allow drive-thru restaurants which is the only difference with the MAPC's recommendation.

On January 8, 2015, the Metropolitan Area Planning Commission (MAPC) reviewed the application. Nearby property owners spoke in opposition citing concerns with noise, debris, odor and traffic that might be generated from new uses located on the application area. The MAPC approved (9-0) the application subject the development standards contained in an amended Protective Overlay #294 as described below. The MAPC eliminated drive-thru restaurants as a permitted use (Provision A); established the building setback along the north line at 20 feet (Provision F); prohibited outdoor speakers except for banks or financial institutions (Provision K) and an allowed staff to work with the applicant to determine the width of a request for additional utility easement, which was established after the MAPC meeting as described in Provision N.

A. Uses permitted shall be limited to the following LC Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, medical services, convenience store, general office, personal care service, personal improvement service, sit-down restaurant provided the restaurant does not exceed 8,000 square feet in size and general retail. The following uses are specifically prohibited: retail liquor store, nightclub in the city, drinking establishment or tavern, drive-thru restaurant, entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans. All buildings within the subject property shall share a uniform architectural character, color and the same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material.

B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance unless modified by another provision of this Protective Overlay.

C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials.

D. Screening along the north, west, and southwest property lines where adjacent to residential zoning shall be provided by an eight-foot high concrete/masonry wall. The solid wall shall be constructed of a pattern and color that is consistent with the building walls. Occupancy permits shall not be issued until a landscaping and screen plan has been approved by the Planning Director. Landscaping shall be installed prior to occupancy.

E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks. Lighting on buildings must be directed down, away from abutting and adjacent residentially-zoned properties.

F. Building setbacks shall be a minimum of 20 feet along the north, 50 feet along the west and southwest property lines and 35 feet along the arterial frontages.

G. Maximum building height is limited to 35 feet.

H. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade.

I. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces any property in a residential zoning district located north or west of the subject site. All signs and building signs facing west and north towards residentially-zoned

properties are prohibited. Signs shall be monument type, as permitted by the sign code in the LC zoning district. The placement of video board signage and/or electronic message boards should be restricted to the Rock Road frontage and should be mounted no higher than 15 feet.

J. All utilities will be located underground.

K. Outdoor speakers and sound amplification systems shall not be permitted except for a bank or financial institution.

L. Deliveries and trash service shall be between the hours of 6:00 a.m. and 10:00 p.m.

M. One full movement driveway located in the northern half of the Rock Road frontage and one right-in/right-out drive with a raised median drive (up to the full movement drive) in the southern segment of the Rock Road frontage are permitted.

N. Prior to the issuance of building permits, the property owner shall dedicate two additional feet of utility easement along the north and southwest property line.

No protest petitions have been received. The request can be approved with a simple majority vote.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council adopt the findings of the MAPC and approve the requested zone change and place the ordinance on first reading (simple majority vote); deny the requested zone change (two-thirds majority vote required) or return the application to the MAPC for reconsideration (simple majority vote).

Attachments: MAPC minutes, DAB memo and ordinance.

OCA 150004

ORDINANCE NO. 49-939

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. ZON2014-00031and Protective Overlay #294

Zone change request from B Multi-Family Residential (B) to LC Limited Commercial (LC) on property located on the northwest corner of East Douglas Avenue and North Rock Road described as Lot 1 Rockwood Reserve A Addition to Wichita, Sedgwick County, Kansas, subject to the development standards contained in Protective Overlay #294:

A. Uses permitted shall be limited to the following LC Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, medical services, convenience store, general office, personal care service, personal improvement service, sit-down restaurant provided the restaurant does not exceed 8,000 square feet in size and general retail. The following uses are is specifically prohibited: retail liquor store, nightclub in the city, drinking establishment or tavern, drive-thru restaurant, entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans. All buildings within the subject property shall share a uniform architectural character, color and the same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material.

B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance unless modified by another provision of this Protective Overlay.

C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials.

D. Screening along the north, west, and southwest property lines where adjacent to residential zoning shall be provided by an eight-foot high concrete/masonry wall. The solid wall shall be constructed of a pattern and color that is consistent with the building walls. Occupancy permits shall not be issued until a landscaping and screen plan has been approved by the Planning Director. Landscaping shall be installed prior to occupancy.

E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks. Lighting on buildings must be directed down, away from abutting and adjacent residentially-zoned properties.

F. Building setbacks shall be a minimum of 20 feet along the north, 50 feet along the west and southwest property lines and 35 feet along the arterial frontages.

G. Maximum building height is limited to 35 feet.

H. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade.

I. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces any property in a residential zoning district located north or west of the subject site. All signs and building signs facing west and north towards residentially-zoned properties are prohibited. Signs shall be monument type, as permitted by the sign code in the LC zoning district. The placement of video board signage and/or electronic message boards should be restricted to the Rock Road frontage and should be mounted no higher than 15 feet.

J. All utilities will be located underground.

K. Outdoor speakers and sound amplification systems shall not be permitted except for a bank or financial institution.

L. Deliveries and trash service shall be between the hours of 6:00 a.m. and 10:00 p.m.

M. One full movement driveway located in the northern half of the Rock Road frontage and one right-in/right-out drive with a raised median drive (up to the full movement drive) in the southern segment of the Rock Road frontage are permitted.

N. Prior to the issuance of building permits, the property owner shall dedicate two additional feet of utility easement along the north and southwest property line.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 10th day of February, 2015.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Sharon Dickgrafe, Interim City Attorney

EXCERPT MINUTES OF THE JANUARY 8, 2015 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2014 00031 - Stratford Apts. East & West, LLC (Robert G. Hanson) / Baughman Company, P.A. (Russ Ewy) request a City zone change from B Multi-family Residential to LC Limited Commercial with a Protective Overlay on property described as:

Lot 1, Rockwood Reserve A Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking to rezone the northwest corner of North Rock Road and East Douglas Avenue (7802 East Douglas Avenue) from the B Multi-Family Residential (B) district to the Limited Commercial (LC) district. The site contains 3.74 acres that were developed with a 104-unit apartment complex built sometime shortly after 1968. If the request is approved the applicant intends to redevelop the site to permit a wider range of uses than just residential uses. (See item A below for the proposed list of allowed uses.) The site has three access points; two on East Douglas Avenue and one on North Rock Road. On Douglas Avenue platted access control allows two driveways to be located 150 feet west of Rock Road. On Rock Road platted access control allows two driveways to be located 150 feet north of Douglas Avenue. A six-foot tall wood fence is located along the southwest, west and north property line. A masonry fence is located along the east property line that abuts Rock Road, and along a 10 to 15-foot segment of East Douglas Avenue located just west of Rock Road. The property is platted as Rockwood Reserve 'A' Addition. A platted eight-foot wide utility easement is located along the southwest, west and north property boundary. A 30-foot wide Continental Pipeline easement is located along Rock Road.

The applicant is offering the following development standards (Unified Zoning Code (UZC) comparisons and staff recommendations and comments are provided in italics, underlined or struck-through):

A. Uses permitted shall be limited to the following "LC" Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, medical services, convenience store, general office, personal care service, personal improvement service, restaurant and general retail provided the restaurant does not exceed 8,000 square feet in size. The following uses are specifically prohibited: retail liquor store, nightclub in the city, drinking establishment or tavern, entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans. All buildings within the subject property shall share a uniform architectural character, color and the same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material. *The LC district permits by right 56 retail, commercial, office and residential uses. Drive-thru restaurant and convenience store should be prohibited given the small size of the site, and the close proximity of single-family and two-family uses. Drive-thru restaurants and convenience stores have the capacity to generate increased levels of noise due to order boards and gas pump speakers and significant amounts of debris and litter.*
B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance

unless modified by another provision of this Protective Overlay. *The requirements of the Landscape Ordinance are triggered when redevelopment costs exceed 50 percent of the site's appraised value or when new parking spaces are installed. The requirements of the Landscape Ordinance are divided between three areas. A minimum amount of landscaping (landscaped street yard) is required to be installed in front of the front façade of the buildings. A landscape buffer of one tree per 40 feet is required where nonresidential uses abut residential uses. Parking spaces located within 150 feet of a street are required to be screened with plants that will ultimately be three feet tall.*

C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials. *Required by the Landscape Ordinance.*

D. Screening along the north, west, and southwest property lines where adjacent to residential zoning shall be provided by an eight-foot high concrete/masonry wall. The solid wall shall be constructed of a pattern and color that is consistent with the building walls. *The proposed masonry wall exceeds the screening typically required by just a zone change. The proposed screening wall will have to be located outside of the utility easement located along the north, west and southwest property lines.* Occupancy permits shall not be issued until a landscaping and screen plan has been approved by the Planning Director. Landscaping shall be installed prior to occupancy.

E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks. Lighting on buildings must be directed down, away from abutting and adjacent residentially-zoned properties. *The UZC requires light poles located within 200 feet of residential uses to be not taller than 15 feet, including base, and requires light fixtures to keep light from trespassing onto abutting property.*

F. Building setbacks shall be a minimum of 15 feet along the north, 50 feet along the west and southwest property lines, and 35 feet along the arterial frontages. *Basic building setbacks in the LC district are: front (south property line)-20 feet; rear (north property line)-10 feet; interior side (west property line)-zero or five feet; street side (east property line)-10 feet; however, compatibility setbacks for a site as large as the subject tract, which overrides base zoning district minimums, require 25-foot building setbacks along interior side (west) and rear (north) yards adjacent to single-family or two-family zoning. The applicant's proposed 15-foot setback along the north property line should be 25 feet.*

G. Maximum building height is limited to 35 feet. *The LC district permits building heights up to 80 feet by right and taller buildings with greater than minimum building setbacks. Without the proposed height limitation, UZC compatibility height standards would allow buildings located over 50 feet from the north and west property line to increase in height above 35 feet at the ratio of one foot in height for each additional three feet of setback over 50 feet.*

H. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade. *Complies with UZC requirements.*

I. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces any property in a residential zoning district located north or west of the subject site. All signs and building signs facing west and north towards residentially-zoned properties are prohibited. Signs shall be monument type, as permitted by the sign code in the "LC" zoning district. *The LC district allows signs to be up to 25 feet in height, and up to 35 feet if the maximum number of signs allowed are not installed.*

The placement of video board signage and/or electronic message boards should be restricted to the Rock Road frontage and should be mounted no higher than 15 feet.
J. All utilities will be located underground.
K. Outdoor speakers and sound amplification systems shall not be permitted, with the exception of restaurant order boards. No order boards are permitted in setbacks. *Staff recommends no drive-thru restaurants be allowed, which would eliminate the need for order boards.*
L. Deliveries and trash service shall be between the hours of 6:00 a.m. and 10:00 p.m.

M. A site plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits. The site plan shall ensure internal circulation within the parcel(s). In the event there is a full turning movement drive to Rock Road, the applicant shall provide a guarantee for the construction of a raised median within Rock Road. *The traffic engineer will support a full movement driveway in the northern segment of the Rock Road frontage and right-in/right-out drive with a raised median in the southern segment of the Rock Road frontage.*

Properties located to the north and west of the application area are overwhelmingly zoned Single-Family Residential (SF-5) and developed with single-family residences. There is one ownership abutting the north property line of the application area that is zoned Two-Family Residential (TF-3) and developed with a duplex. Properties located east, across Rock Road, are zoned B and LC, and are developed with an apartment complex and retail and office uses. Land located south of the subject site, across Douglas Avenue, is zoned LC subject to the development standards contained in Community Unit Plan DP-12, and is developed with Towne East Mall, a regional shopping center.

If 30 percent of the site were developed with 48,874 square feet of retail sales the site could generate an estimated average daily traffic volume of 2,052 trips. During peak hours, a convenience store can generate 79 to 97 average daily vehicle trips per 1,000 square feet. Using the previously noted traffic generation rates, a 5,800 square-foot convenience store could generate 458 to 562 average daily vehicle trips during the peak hour.

CASE HISTORY: Rockwood Reserve 'A' Addition was platted in 1967.

ADJACENT ZONING AND LAND USE:

North:	SF-5, TF-3; single-family residences
South:	LC subject to CUP DP-12; regional shopping center
East:	B, LC; multi-family residential complex, retail and convenience shopping
West:	SF-5; single-family residential

PUBLIC SERVICES: East Douglas Avenue is a four-lane arterial with east-bound left-turn and right-turn lanes at the intersection with Rock Road. East-bound East Douglas Avenue carries an average of 11,893 vehicles on a daily basis. West-bound East Douglas Avenue carries over 11,000 average daily vehicle trips. North Rock Road at its intersection with East Douglas Avenue is a six-lane arterial with right-turn and left-turn lanes. North Rock Road at East Douglas Avenue carries between 18,560 and 28,542 average daily vehicle trips.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a larger urban municipality. The range of housing types includes single detached homes, semi-detached, duplexes, apartments, condominiums and special residential accommodations for the elderly. The comprehensive plan's commercial locational guidelines indicate that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Commercial uses should be located in compact clusters or nodes versus extended strip developments, and should not feed directly onto local residential streets.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that LC zoning be approved, subject to the development standards contained in Protective Overlay #294:

A. Uses permitted shall be limited to the following "LC" Limited Commercial zoning district uses: single-family residential, duplex, multi-family, assisted living, day care limited, day care general, government service, safety service, animal care limited, automated teller machine, bank or financial institution, medical services, general office, personal care service, personal improvement service, sit-down restaurant and general retail provided the restaurant does not exceed 8,000 square feet in size. The following uses are is specifically prohibited: retail liquor store, nightclub in the city, drinking establishment or tavern, convenience store, drive-thru restaurant entertainment establishment, pawnshop or business that accepts vehicle titles or other property as security for loans. All buildings within the subject property shall share a uniform architectural character, color and the same predominate exterior building material. The building walls shall not utilize metal as a predominate exterior façade material.
B. Landscaped street yards, buffers and parking lot landscaping/screening shall utilize a shared palette of landscape material, and shall comply with the City of Wichita Landscape Ordinance unless modified by another provision of this Protective Overlay.
C. A landscape plan shall be prepared for the above referenced requirement, and shall indicate type, location and specifications for all plant materials.
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E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks. Lighting on buildings must be directed down, away from abutting and adjacent residentially-zoned properties.
F. Building setbacks shall be a minimum of 25 feet along the north, 50 feet along the west and southwest property lines and 35 feet along the arterial frontages.
G. Maximum building height is limited to 35 feet.

H. Rooftop mechanical equipment, trash receptacles, loading docks and loading areas shall be screened from ground level view, and said screening is required to match or be similar to the building façade.
I. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building that faces any property in a residential zoning district located north or west of the subject site. All signs and building signs facing west and north towards residentially-zoned properties are prohibited. Signs shall be monument type, as permitted by the sign code in the "LC" zoning district. The placement of video board signage and/or electronic message boards should be restricted to the Rock Road frontage and should be mounted no higher than 15 feet.
J. All utilities will be located underground.
K. Outdoor speakers and sound amplification systems shall not be permitted.
L. Deliveries and trash service shall be between the hours of 6:00 a.m. and 10:00 p.m.
M. One full movement driveway located in the northern half of the Rock Road frontage and one right-in/right-out drive with a raised median drive (up to the full movement drive) in the southern segment of the Rock Road frontage are permitted.
N. Prior to the issuance of building permits, the property owner shall dedicate two additional feet of utility easement along the north, west and southwest property line.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area can be viewed as the southeast corner of a larger neighborhood that continues to be an economically stable and very desirable residential area, or it can be viewed as the northwest corner of the Rock Road-Douglas Avenue intersection that is one of Wichita's more economically significant intersections. Towne East Mall, located to the south of the application area that is permitted over 1million square feet of gross floor area of retail shopping, is a regionally significant mall generating sizable vehicle trips per day. The Rock Road-East Douglas Avenue intersection carries 11,000 to 28,000 average daily vehicle trips. The southeast corner is developed with a convenience store. Farther south of the convenience store are additional retail uses such as fast food restaurants, a car wash, office and retail uses. The northeast corner of the intersection contains additional retail, office and residential uses. Rock Road frontage is highly desirable.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned B Multi-family, which permits a wide range of residential uses–single-family through multi-family-and a few nonresidential uses such as medical offices and facilities. The site is currently developed with an apartment complex built shortly after 1968. As currently zoned and developed, the site has economic value, but probably not as much as if the site were rezoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will permit the development of retail and other commercial uses on property that abuts the rear of predominantly single-family lots. Commercial uses generally have higher traffic volumes, noise, lighting and debris than residential uses. However, the development standards contained in the proposed protective overlay and other code required development standards should minimize anticipated impacts.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would add to the amount of commercial zoning located along Rock Road. Denial would presumably represent a loss of economic opportunity to the applicant or the property owner.

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 appropriate for "urban residential" uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a larger urban municipality. The range of housing types includes single detached homes, semi-detached, duplexes, apartments, condominiums and special residential accommodations for the elderly. The comprehensive plan's commercial locational guidelines indicate that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. Commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Commercial uses should be located in compact clusters or nodes versus extended strip developments, and should not feed directly onto local residential streets.

6. Impact of the proposed development on community facilities: The request for two additional feet of utility easement will bring the existing easement up to current standards. The request for access control for one right-in/right-out access point to Rock Road addresses traffic concerns on Rock Road.

DALE MILLER, Planning Staff presented the Staff Report.

MILLER said there were several points of contention regarding recommendations in the Staff Report including: Item A. permitted uses. He said staff is recommending that convenience stores and drive-thru restaurants not be allowed; Item F. the applicant is asking for a 15-foot building setback along the north side of the property instead of the 25-foot compatibility setback required by the UZC; however, he said the applicant is offering a larger than required setback along the west side of the property of 50-feet where as the UZC only requires 25-feet; he said the applicant is also offering a masonry wall along the west side of the property where the UZC requires a 6-foot wooden fence; Item I. he referred to language corrections "any electronic message boards ~~should~~ *shall* be restricted to Rock Road and ~~should~~ *shall* be mounted no higher than 15-feet;" Item K. since no convenience stores or drive-thru restaurants are recommended there would be no need for outdoor speakers or sound amplification features; Item N. he said staff is still trying to sort out the 8-foot utility easement along the west and north property lines. He said the Department of Public Works is asking for two additional feet; however, the actual line may or may not be located within the easement. He requested that if the Planning Commission approves the application, that staff be given the leniency to work with Public Works and the applicant to develop the appropriate language to obtain the additional right-of-way if it makes sense to do that.

MILLER reported that 8-9 people spoke at the DAB II meeting regarding concerns that they are already getting trash from Town East and smells from restaurants in the area and they don't want any more of that and if a convenience store is allowed to have fuel pumps they are concerned about leaking gas tanks. He said one of the speakers indicated that the Rockwood Neighborhood Association was meeting on January 20th, so the DAB decided to defer taking action until the February DAB meeting to allow the neighborhood association to meet. He said staff will take the item back to the DAB in February, but the Planning Commission is free to reach a decision today.

WARREN asked about the masonry wall.

MILLER indicated currently there was a wooden fence and the applicant will have to stay out of the utility easement on the west and on the north sides of the site when they install the masonry wall.

DENNIS asked if staff was in agreement with the setbacks requested by the applicant.

MILLER said staff is okay with the request except the for the one on the north where the applicant would like 15 feet instead of the UZC requirement of 25 feet.

RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR APPLICANT said he felt the DAB meeting was productive although it did not come to a resolution. He said he felt the general mood of the DAB was in favor of the zone change. He said the same points of contention reiterated today by Mr. Miller were the main talking points at the meeting. He commented that one couple who lives east of the site spoke in opposition to restaurants of any kind. He said another resident who lives northwest of the site also mentioned not enjoying the smells of the Dillons and Krispy Kreme as well as other stores in the area. He said that speaker also brought up the issue of gas storage if there was a convenience store on the site. He said the applicant has made a number of attempts to reach out to
adjoining property owners and the homeowners association. He said he inadvertently posted the development application sign twice on the property so signs have been posted since December 6th. He said he has received several phone calls all dealing with what is going to happen to residents of the apartment complex. He said he has received no feedback from surrounding property owners. He did mention that he received a phone call from the property owner to the north, the one most affected by the requested 15-foot setback, and they are in support of the requested zone change.

EWY said the applicant feels a 15-foot setback is reasonable. He said the 25-foot setback comes from the compatibility setback in the UZC not the base zoning district setback. He said they are asking the Commission to consider the 15-foot setback since they will be providing an 8-foot masonry wall. He said they would also like the Commission to strongly consider allowing fast food restaurants and convenience stores as permitted uses.

B. JOHNSON asked for clarification of the 25-foot setback and if that could be adjusted administratively.

MILLER explained that if the Commission requires the 25-foot setback, theoretically the applicant could ask for an administrative adjustment. He said technically once the zoning is finalized, the applicant can request an adjustment.

MILLER STEVENS asked for clarification on the no drive-thru provision and asked if that was any drive-thru or just specifically restaurants.

MILLER said staff was specifically referring to restaurants, but added they would be okay with a drive-thru bank because staff doesn't get the same kind of complaints from surrounding neighbors.

MCKAY mentioned the 25-foot setback to the north and asked if it was for utilities or to shield the neighbors and if there was any room for negotiations on that.

MILLER said the 25 feet comes from the compatibility setback in the UZC. He added that anything between 15 and 25 feet could work.

DENNIS asked staff how much room was needed for the right-of-way and the setback.

MILLER mentioned an 8-foot utility easement and added that the applicant was requesting 15 feet, which was an additional 7 feet. He reiterated that the UZC says 25 feet.

DENNIS asked if 20 feet would take care of the right-of-way and setback.

MILLER indicated yes.

MCKAY clarified that the easement was on both sides of the property line.

MILLER indicated no, the easement was only on the south side of the property line. He said there may be a platted setback that is a different plat.

B. JOHNSON mentioned the possibility that the utilities may not be within the 8-foot easement.

MILLER indicated that according to the aerial graphic very little of the utilities appear to be in there.

B. JOHNSON asked what utilities are in the easement.

EWY commented that he used the Wichita-Sedgwick County GIS system as a tool to generate the graphic. He provided a hand out of the graphic for review by the Commission. He mentioned that the sanitary sewer line appears to be at weird angles. He said he believes the existing sanitary sewer lines were covered by separate instruments. He said the applicant has a simple plated 8-foot easement to the northwest and southwest. He said the requested 15-foot setback will not encumber the use of the easement. He said the applicant would be willing to work with staff and City Engineering to dedicate
additional right-of-way in the northwest corner and elbow by separate instrument. He mentioned that they would also be dedicating access control by separate instrument and guaranteeing a raised median to help with traffic along Rock Road.

MOTION: To approve subject to staff recommendation with the exception to allow a 20-foot right-of-way on the north of the site; to allow convenience stores; to allow outdoor speakers and drive-thrus for banks only (no restaurants); and that staff work with the applicant and Public Works on the easement.

WARREN moved, **DENNIS** seconded the motion, and it carried (9-0).

DRAFT

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC

FROM: Alana Haynes, Community Liaison

SUBJECT: **ZON2014-00031** Rezoning the northwest corner of North Rock and East Douglas Avenue (7802 E. Douglas Ave.) from the B Multi-Family Residential (B) district to the Limited Commercial (LC) district.

DATE: January 7, 2015

On Tuesday, January 6, 2015 the District II Advisory Board considered a request to rezone the northwest corner of North Rock and East Douglas Avenue (7802 E. Douglas Ave.) from the (B) Multi-Family Residential (B) district to the Limited Commercial (LC) district.

Dale Miller, Current Plans Manager, presented on **ZON2014-00031** and reported that staff is recommending the north setback to be 25 feet. The applicant is requesting a 15-foot setback along the north property line. A restriction on video signage has been added, but the section to allow signage to face east across Rock Road where opposite of the apartments, has been corrected. Staff is recommending a prohibition on convenience stores and drive-thru restaurants. Staff is also requesting the ability to modify Item M dealing with the utility easement to allow staff and the applicant to confirm where the utilities actually are. Signs were up when I looked at the site, recently; the signage doesn't have to be up until the 28 of December.

DAB member: The things that you have mentioned, are the developers in agreement? **Miller**: No, the things I mentioned the developers are opposing.

Russ Ewy: We understand that at these intersections the need for the restrictions may be necessary. We have tried to work with the 13 volunteer restrictions. We have reduced signage, we have eliminated LC restriction requirements, and there are still several areas were staff and the developers differ. The applicant would like to have a 10 ft. setback on the north. The normal setback is 25 feet, we are set back 50 ft. on the west. We are in agreement with providing additional utility easement. This is already a platted lot. We have enjoyed working with the homeowners association and no one has expressed any concerns against our proposal and protective overlay. Other questions received were about apartment renters, the apartment owners will honor their leases for the remainders of their contracts.

DAB member: Is there an access barriers from the apartments? **Ewy**: There is a wooden fence, but I am unsure of a pedestrian access, we will put in an 8 ft. masonry wall. Will the new lights

be limited to 15 ft.? **Ewy**: Yes, that is a requirement to have 15 ft. because we are within 200 ft. of a residential property.
DAB member: The 8 ft. wall will go completely around the property? **Ewy**: Yes, we are in agreement that the 8 ft. wall will be best fitted.

DAB member: Are the apartments two story? **Ewy**: Yes, they are.

DAB member: If it didn't go commercial, what height can the apartments go back in as? **Ewy**: The allotment is for an 80 ft. height. The scale of a building is determined by available parking, and with commercial development we are estimating 35 ft. two story building.

DAB member: How was your meeting with the NA? **Ewy**: There is nothing that is written for the NA, we were able to talk over the phone, and I provided information on what's going on, the time frame and we also told them about the DAB meeting tonight. The HOA president told us their concerns with the current commercial neighbors and would like for this proposal / protective overlay to address their concerns.

DAB member: What is the main reason for the additional protective overlays regarding the convenience store and the drive-thru restaurant? **Miller:** Noise, trash, debris and the other problems may carry over to the residential property owners. We try to be fair to all of the developers. We had a similar request on Oliver and 21st that we recommended denial. However, we recognize that Rock Road is a different corridor than Oliver. With this corner being small the people that have homes close by will probably experience issues.

DAB member: Is this site bigger than the QuikTrip? **Ewy**: Yes, there is a QuickShop that just open on 21st and Oliver, Douglas and Rock seems to have more traffic, and it seems unfair to eliminate that option from the developer. **Ewy:** We feel that Rock is a different street from Oliver, we also feel that the single family homes should be protected from the interference. We will be willing to work with the City and order speaker that are not as loud to prevent noise from going into the residential area.

DAB member: I would be interested in hearing what people in the audience have to say.

Citizen: Rockwood NA, We are still having problems with Towne East with trash. The winds come from the south and we smell the fumes from the restaurants, it is not a pleasant odor. The air quality needs to be considered. We already have four restaurants in the area.

Citizen: Rockwood NA, What is the ruling on placing gas storage tanks on site? **Miller**: Nothing is prohibiting a gas storage on site at this time.

DAB member: Has the time frame passed for residents to respond? **Miller**: Standard letters have gone out and HOA's have been notified. The planning commission meeting will be this Thursday and a 14 day protest period will begin after Thursday. The red and white signs are now up. Three calls have been received similar to what Mr. Ewy has described.

Citizen: Rockwood Board Member, We are dealing with a short notice, however; the residents have been informed. We are here tonight to learn more about what is going on. We were informed by an email blast to attend tonight's meeting.

DAB member: Would you be opposed to approving what the developers want because the neighbors are in agreement? **Miller**: Zoning has to be approved, they do not have a specific plan. We will make a recommendation and the City Council will have the final say so.

DAB member: Is it possible for the neighbors to sit down with the developers and create a plan, after which; this item can come back to the next DAB meeting on February 3rd. **Miller**: Yes, that is possible.

Brian Carduff motioned to defer **ZON2014-00031,** until after the Rockwood HOA Meeting on January 20, 2015. **Dale Carter**, seconded. Motion passed, **7-0**. This item has been requested to come back before DAB II on February 3, 2015.

Please review this information when **ZON2014-00031** considered.

City of Wichita
City Council Meeting
February 10, 2014

TO: Wichita Housing Authority Board

SUBJECT: 2015 Flat Rent Schedule - Public Housing Program

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Non-Consent)

Recommendation: Approve the 2015 Flat Rent schedule for the Public Housing Program.

Background: The Quality Housing and Work Responsibilities Act of 1998 allows Public Housing tenants to annually choose whether to pay rent based on their income (generally up to 30% of the adjusted income), or to pay a flat rent, and provided guidance to Housing Authorities as to how to calculate the flat rent. This legislation further allows families experiencing hardships to switch from paying flat rents to income-based rents. The income of families paying flat rents must be reviewed not less than once every three years; the income of families paying income-based rents must continue to be reviewed once a year.

This component of the legislation assumes that paying income-based rent serves as a disincentive for families to increase its income to achieve self-sufficiency. By contrast, flat rents have the effect of encouraging self-sufficiency in that the rent payment does not increase as the family improves its financial condition.

The 2014 Appropriations Act changed the Quality Housing and Work Responsibilities Act of 1998 rule for calculating the flat rent amount (24CFR 960.253) which was based on private unassisted market rate units and property conditions including property locations, number of bedrooms, building material quality and amenities if any. The 2014 Appropriations Act and Notice PIH 2014-12 now require that flat rents be established at 80% of Fair Market Rents at a minimum. However, the new rule also requires Housing Authorities to phase in the new flat rent amount, to ensure that a family's rental payments do not increase by more than 35% per year as a result of this change.

Analysis: Flat Rents need to be adjusted and approved annually after HUD issues the final Fair Market Rents in October. The flat rent calculation requires that Housing Authorities reduce the adjusted flat rents by the cost of utilities for which tenants are responsible. The WHA adjusts flat rents based on the type of unit and its Asset Management Program (AMP) group.

Financial Considerations: Higher flat rents will benefit Wichita Public Housing operating revenues, which are based on tenant rents and HUD Operating Subsidies.

Legal Considerations: The Law Department has approved the 2015 Flat Rent Schedule as to form.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board approve the 2015 Flat Rent schedule for the Public Housing Program.

Attachment: 2015 Proposed Flat Rent Schedule.

Wichita Housing Authority
2015 Proposed Flat Rent Schedule
Notice PIH 2014-12 (HA)

AMP 1	**Unit Size**	**80% of FMR**	**Tenant Paid Utilities**	**PIH Notice 2014-12 2015 Flat Rent**	**WHA 2014 Flat Rents**	**WHA Proposed 2015 Flat Rents**	**Increase Percentage not to exceed 35%**
Greenway	1 BR	435	<37>	398	325	360	11%
	2 BR	578	<42>	536	425	480	13%
McLean	1 BR	435	<37>	398	325	398	11%
	2 BR	578	<42>	536	425	536	13%
AMP 2							
Rosa Gragg	1 BR	435	<97>	338	325	338	4%
Bernice Hutcherson	1 BR	435	<97>	338	325	338	4%
AMP 3 and AMP 4 Single-family Units							
	2 BR	578	<149>	429	472	429	<10%>
	3 BR	799	<180>	619	573	619	8%
	4 BR	879	<220>	659	641	659	3%
	5 BR	1010	<252>	758	708	758	7%
	6 BR	1142	<267>	875	742	875	8%

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

PRELIMINARY ESTIMATES
FOR CITY COUNCIL FEBRUARY 10, 2015

a. Pressure and Chlorine Booster Station to serve Sedgwick County Rural Water District #1 (south of 53rd Street North, west of Webb Road) (448-90565/633813/759018) Traffic to be maintained during construction using flagpersons and barricades. (District All) - $1,100,000.00

b. Water Distribution System to serve Waterfront 7th Addition (north of 13th Street North, west of Greenwich) (448-90653/735522/470195) Does not affect existing traffic. (District II) - $18,000.00

c. Water Distribution System to serve Waterfront 7th Addition (north of 13th Street North, west of Greenwich) (448-90654/735523/470196) Does not affect existing traffic. (District II) - $99,000.00

d. Lateral 62, Main 24, War Industries Sewer to serve Waterfront 7th Addition (north of 13th Street North, west of Greenwich) (468-85002/744380/480072) Does not affect existing traffic. (District II) - $18,000.00

e. Lateral 63, Main 24, War Industries Sewer to serve Waterfront 7th Addition (north of 13th Street North, west of Greenwich) (468-85003/744381/480073) Does not affect existing traffic. (District II) - $248,000.00

f. Storm Water Sewer #688 to serve Waterfront 7th Addition (north of 13th Street North, west of Greenwich) (468-85004/751530/485421) Does not affect existing traffic. (District II) - $304,000.00

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

NOT TO BE ADVERTISED
PRELIMINARY ESTIMATES
FOR CITY COUNCIL FEBRUARY 10, 2015

PRELIMINARY ESTIMATE of the cost of paving improvements to serve Krug South Addition (District II) (472-85057/766323/490-344) – Total Estimated Cost $148,960.

To the City Council
Wichita, Kansas

Date of CC 2/10/2015
(OCA/PROJ) 766323/472-85057
(PPN) 490-344

THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS

PRELIMINARY ESTIMATE of the cost of paving improvements to serve Krug South Addition (District II).

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost $148,960

CITY OF WICHITA
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

Gary Janzen, City Engineer

Sworn to and subscribed before me this _____ day of _____, 2015.

City Clerk

Page _____ Exhibit _____

PRELIMINARY ESTIMATE of the cost of paving improvements to serve Krug South Addition (District II) (472-85057/766323/490-344) – Total Estimated Cost $148,960.

Page _____ Exhibit _____

THE CITY OF WICHITA
Department of Public Works

Wichita, Kansas

NOT TO BE ADVERTISED
PRELIMINARY ESTIMATES
FOR CITY COUNCIL FEBRUARY 10, 2015

PRELIMINARY ESTIMATE of the cost of storm water sewer improvements to serve Krug South Addition (District II) (468-84834/751528/485-419) – Total Estimated Cost $29,260.

To the City Council
Wichita, Kansas

Date of CC	2/10/2015
(OCA/PROJ)	751528/468-84834
(PPN)	485-419

THIS PROJECT IS NOT TO BE ADVERTISED FOR BIDS

PRELIMINARY ESTIMATE of the cost of storm water sewer improvements to serve Krug South Addition (District II).

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

Total Estimated Cost $29,260

CITY OF WICHITA
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

Gary Janzen, City Engineer

Sworn to and subscribed before me this _____ day of _____, 2015.

City Clerk

Page _____ Exhibit _____

PRELIMINARY ESTIMATE of the cost of storm water sewer improvements to serve Krug South Addition (District II) (468-84834/751528/485-419) – Total Estimated Cost $29,260.

Page _____ Exhibit _____

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Petitions for Improvements to Cross Pointe Second Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the new and revised petitions and adopt the new and amending resolutions.

Background: On June 28, 2005, and December 11, 2007, the City Council approved petitions for sanitary sewer and storm water drain improvements to serve Cross Pointe Second Addition. The developer has submitted revised petitions reflecting a revised improvement area. The developer has also submitted new petitions for additional sanitary sewer, storm water drain, and water distribution system improvements. All of the petitions are required for a lot split. The signatures on the petitions represent 100% of the improvement district and the petitions are valid per Kansas Statute 12-6a01.

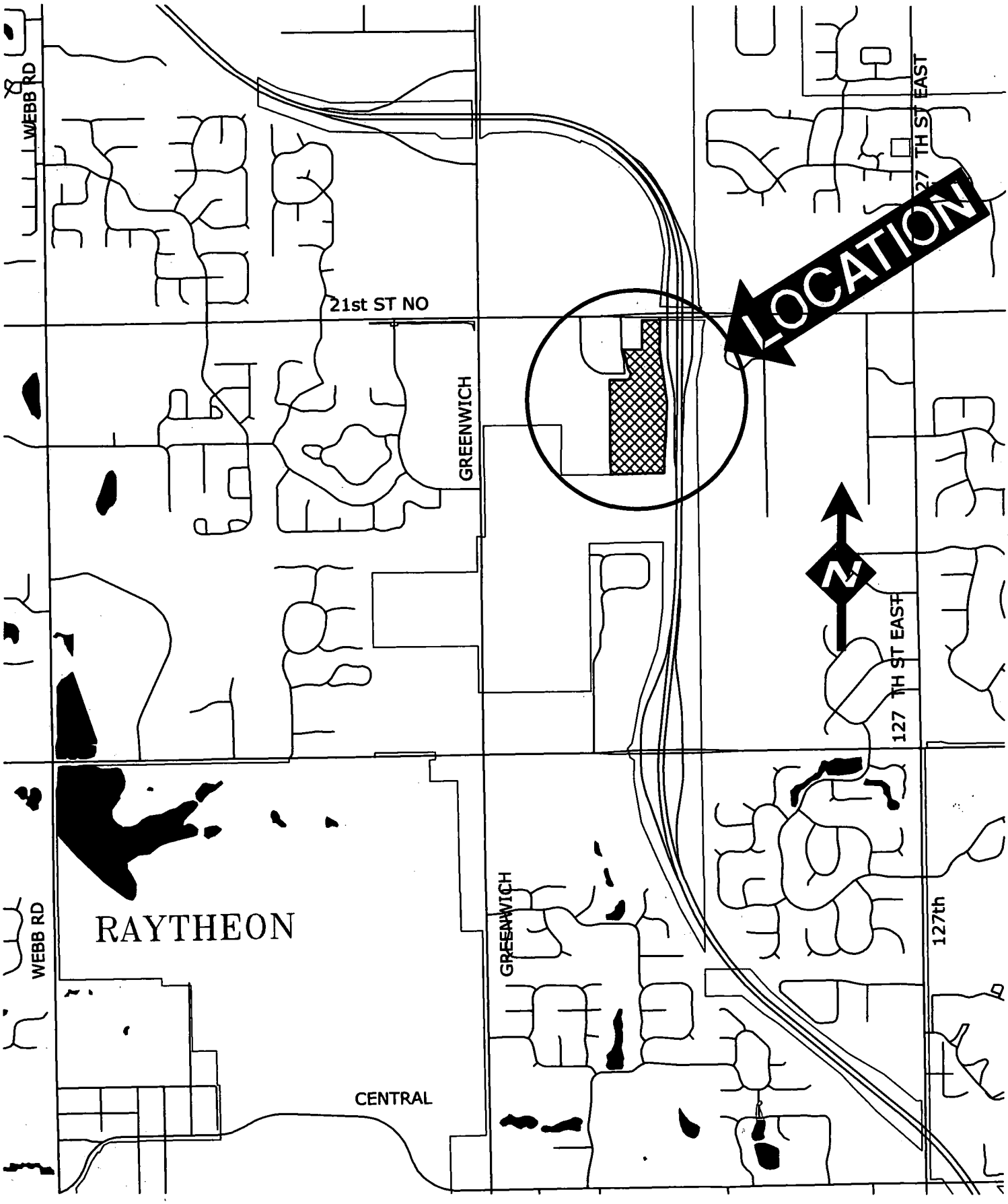
Analysis: The projects will provide sanitary sewer, storm water drain, and water distribution system improvements to serve a new commercial development located south of 21st Street North, east of Greenwich Road.

Financial Considerations: The existing petition totals were $250,400 for the storm water drain, and $78,000 for the sanitary sewer improvements. The revised petition totals are $380,000 for the storm water drain and $65,000 for the sanitary sewer. The new petition totals are $110,000 for the storm water drain, $150,000 for the sanitary sewer, and $26,000 and $31,000 for two water projects. The funding source for all of the projects is special assessments.

Legal Considerations: The Law Department has reviewed and approved the new and revised petitions and new and amending resolutions as to form.

Recommendation/Action: It is recommended that the City Council approve the new and revised petitions, adopt the new and amending resolutions, and authorize the necessary signatures.

Attachments: Map, new and revised petitions, new and amending resolutions, and budget sheets.


WEBB RD
21st ST NO
GREENWICH
LOCATION
127 TH ST EAST
N
RAYTHEON
WEBB RD
GREENWICH
127th
CENTRAL

4

SANITARY SEWER PETITION
PHASE 1

To the Mayor and City Council
Wichita, Kansas

Revises 468-84045
Lot 6, Main 16, FMC

Dear Council Members:

1. I, the undersigned owner of record as below designated, of Lots, Parcels, and Tracts of real property described within an addition as follows:

CROSS POINTE 2ND
Parcels 1 and 3
(Legal descriptions attached hereto)

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

(a) That there be a sanitary sewer constructed through Parcel 1 (Part of Lot 6) southward parallel to Parcel 3 (Part of Lots 6 and 7) to Parcel 2 (Part of Lot 7) of Cross Pointe 2nd. That said sanitary sewer between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) The estimated or probable cost of the proposed Improvements is: Sixty Five Thousand Dollars ($65,000), exclusive of interest on financing and administrative and financing costs; said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Parcel 1 shall be assessed 7,296/10,000 of the total project cost and Parcel 3 shall be assessed 2,704/10,000 of the total project costs.

Where the ownership of a single lot, parcel or tract is or may be divided into two or more parcels, the assessment to the lot, parcel or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK	By:	12/3/14
Parcel 1	Jerry Jones, Vice President	
Parcel 3		

PEC Project No. 35-14472-001-0042
Sanitary Sewer Petition

PARCEL 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to

the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND SANITARY SEWER PETITION** **CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-001-0042** Prepared by: CSB Estimate Date: 11/1/2014

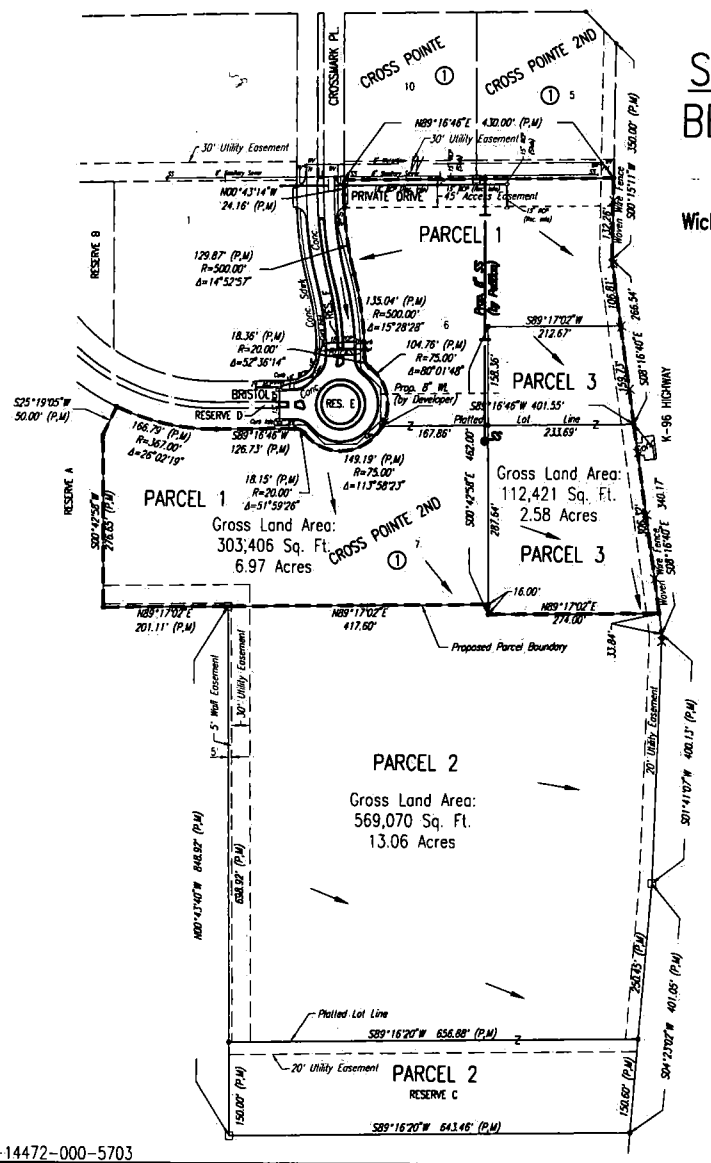
CROSS POINTE 2ND PHASE 1SANITARY SEWER

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	8" sanitary sewer	500	LF	$ 30.00	$ 15,000.00
2	Manholes	3	EA	$ 3,200.00	$ 9,600.00
3	6" stubs	3	EA	$ 500.00	$ 1,500.00
4	Pavement restoration	100	LF	$ 45.00	$ 4,500.00
5	Air Testing	500	LF	$ 0.50	$ 250.00
6	Sand Backfill	500	LF	$ 7.00	$ 3,500.00
7	Erosion protection	1	LS	$ 2,500.00	$ 2,500.00
8	Site Clearing & restoration	1	LS	$ 5,000.00	$ 5,000.00

	SubTotal Constuction	$ 41,850.00
10%	Contingency Costs	$ 4,185.00
	Total Construction	$ 46,035.00
30%	Project Costs	$ 13,810.50
	Total Project Cost	**$ 59,845.50**
	Use Petition Amount	$ 65,000.00
	Parcel 1 Share =	$ 47,427.00
	Parcel 3 Share =	$ 17,576.00

PHASE 1 SANITARY SEWER BENEFIT DISTRICT

Lots 6 and 7, Block 1, Cross Pointe 2nd
Wichita, Sedgwick County, Kansas



SCALE: 1" = 200'

0 200 400

DATE: July 22, 2014

LEGEND

- □ = Found 1/2" Rebar with Boughman Cap
- ○ = Found 1/2" Rebar with PEC Cap
- ● = Set 1/2" Rebar with PEC Cap
- P,M = Platted and Measured
- D,M = Described in Deed and Measured
- ⟶ = Drainge Arrow
- ▬ ▬ = Benefit District

PARCEL 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

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Plot Scale 1:200 11-26-2014 10:26:50 AM by CHRIS EPP
U:\Wichita-Civil\2014\14472\000\Muni\Drawings\Lot Split\14472-000-SS Benefit District

35-14472-000-5703

468-84045

SANITARY SEWER PETITION
PHASE 2

To the Mayor and City Council
Wichita, Kansas

468-85012
Lateral 14, Main 16, FMC

Dear Council Members:

1. I, the undersigned owner of record as below designated, of Lots, Parcels, and Tracts of real property described within an addition as follows:

CROSS POINTE 2ND
Lot 1, Block 1
Parcel 2
(Legal descriptions attached hereto)

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

(a) That there be a sanitary sewer constructed through Lot 1, Block 1, eastward to Parcel 2 (Part of Lot 7) of Cross Pointe 2nd. That said sanitary sewer between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) The estimated or probable cost of the proposed Improvements is: One Hundred Fifty Thousand Dollars ($150,000), exclusive of interest on financing and administrative and financing costs; said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Lot 1, Block 1, shall be assessed 5,487/10,000 of the total project cost and Parcel 2 shall be assessed 4,513/10,000 of the total project costs.

Where the ownership of a single lot, parcel or tract is or may be divided into two or more parcels, the assessment to the lot, parcel or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK 1 Lot 1 Parcel 2	By: _____ Jerry Jones, Vice President	12/3/14

PEC Project No. 35-14472-001-0042
Sanitary Sewer Petition Phase 2

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

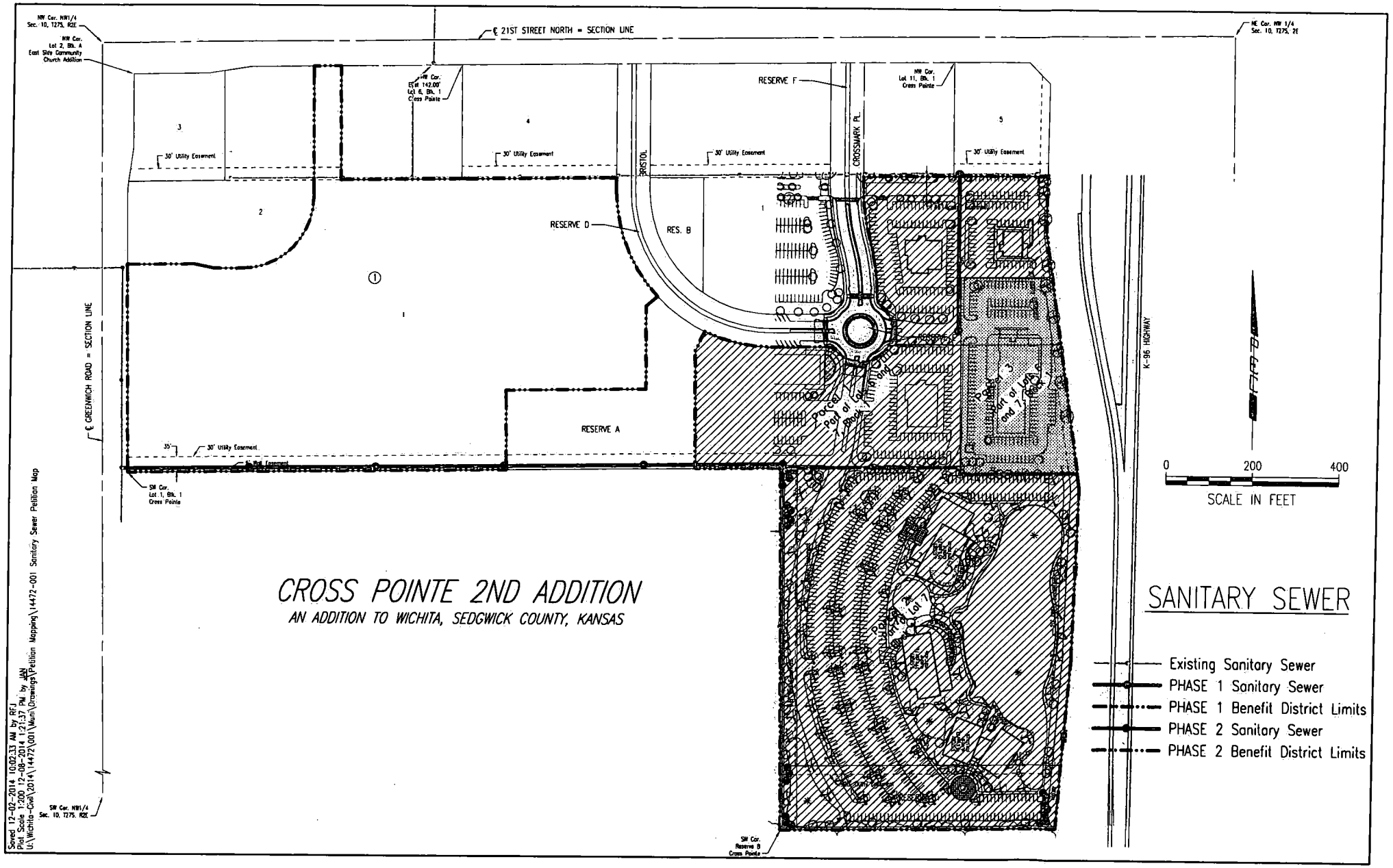
Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND SANITARY SEWER PETITION** **CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-001-0042** Prepared by: CSB Estimate Date: 11/1/2014

CROSS POINTE 2ND PHASE 2 SANITARY SEWER

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	8" sanitary sewer	1,700	LF	$ 30.00	$ 51,000.00
2	Manholes	7	EA	$ 3,200.00	$ 22,400.00
3	6" stubs	4	EA	$ 500.00	$ 2,000.00
4	Air Testing	1,700	LF	$ 0.50	$ 850.00
5	Sand Backfill	1,700	LF	$ 7.00	$ 11,900.00
6	Erosion protection	1	LS	$ 5,000.00	$ 5,000.00
7	Site Clearing & restoration	1	LS	$ 10,000.00	$ 10,000.00
				SubTotal Constuction	$ 103,150.00
		10%		Contingency Costs	$ 10,315.00
				Total Construction	$ 113,465.00
		30%		Project Costs	$ 34,039.50
				Total Project Cost	**$ 147,504.50**
				Use Petition Amount	$ 150,000.00
				Lot 1, Block 1 =	$ 82,305.00
				Parcel 2 Share =	$ 67,695.00


CROSS POINTE 2ND ADDITION
AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS
SANITARY SEWER
Existing Sanitary Sewer
PHASE 1 Sanitary Sewer
PHASE 1 Benefit District Limits
PHASE 2 Sanitary Sewer
PHASE 2 Benefit District Limits
0
200
400
SCALE IN FEET
K-96 HIGHWAY
CROSSMARK PL.
BRISTOL
RESERVE F
RESERVE D
RES. B
RESERVE A
30' Utility Easement
℄ 21ST STREET NORTH = SECTION LINE
℄ GREENWICH ROAD = SECTION LINE
NW Cor. NW1/4 Sec. 10, T27S, R02E
NE Cor. NW 1/4 Sec. 10, T27S, 2E
SW Cor. NW1/4 Sec. 10, T27S, R02E
SW Cor. Lot 1, Blk. 1 Cross Pointe
SW Cor. Reserve B Cross Pointe
Saved 12-02-2014 10:02:33 AM by RFJ
Plot Scale 1:200 12-08-2014 1:21:37 PM by JAN
U:\Wichita-Civil\2014\14472\001\Main\Drawings\Petition Mapping\14472-001 Sanitary Sewer Petition Map

4

STORMWATER DRAIN PETITION
PHASE 2

To the Mayor and City Council
Wichita, Kansas

Revises 468-84048
SWD #273

Dear Council Members:

1. I, the undersigned owner of record as below designated, of Lots, Parcels, and Tracts of real property described within an addition as follows:

CROSS POINTE 2ND
Parcel 2, Block 1
(Legal description attached hereto)

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

(a) That there be constructed a stormwater detention pond within Parcel 2, Block 1, Cross Pointe 2nd. That said detention pond be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) The estimated or probable cost of the proposed Improvements is: Three Hundred Eighty Thousand Dollars ($380,000), exclusive of interest on financing and administrative and financing costs; said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Parcel 2 shall be assessed 100% of the project cost.

Where the ownership of a single parcel, lot or tract is or may be divided into two or more parcels, the assessment to the parcel, lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK 1 Parcel 2	By: _____ Jerry Jones, Vice President	12/3/14

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND STORMWATER DRAIN PETITION - CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-002-0042** Prepared by: CSB Estimate Date: 11/1/2014

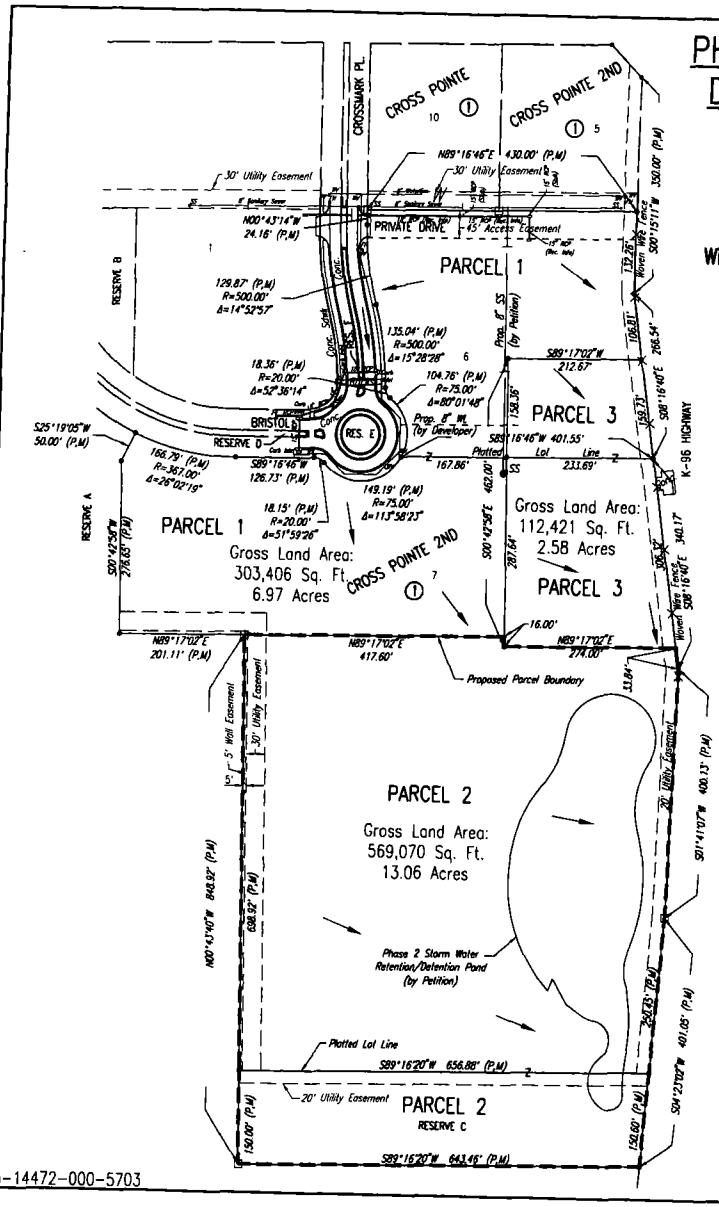
CROSS POINTE 2ND PHASE 2 STORMWATER DRAIN

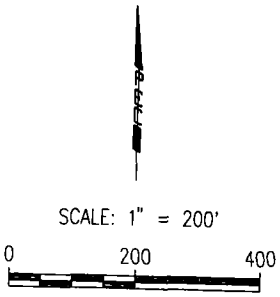
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	Excavation	40,000	CY	$ 5.00	$ 200,000.00
2	Rock Shore Lining	1,000	SY	$ 20.00	$ 20,000.00
3	Pond Lining	1	LS	$ 20,000.00	$ 20,000.00
4	Clearing & grubbing	1	LS	$ 5,000.00	$ 5,000.00
5	Erosion Control	1	LS	$ 7,500.00	$ 7,500.00
6	Site Clearing and Restoration	1	LS	$ 10,000.00	$ 10,000.00

	SubTotal Construction Cost	$ 262,500.00
10%	Contingency Cost	$ 26,250.00
	Total Construction Costs	$ 288,750.00
30%	Project Cost	$ 86,625.00
	Total Project Cost	**$ 375,375.00**
	Use Petition Amount	$ 380,000.00
	Parcel 2 Share	$ 380,000.00

PHASE 2 STORM WATER DRAIN IMPROVEMENTS BENEFIT DISTRICT

Lots 6 and 7, Block 1, Cross Pointe 2nd Wichita, Sedgwick County, Kansas





DATE: July 22, 2014

LEGEND

- □ = Found 1/2" Rebar with Baughman Cap
- ○ = Found 1/2" Rebar with PEC Cap
- ● = Set 1/2" Rebar with PEC Cap
- P,M = Platted and Measured
- D,M = Described in Deed and Measured
- ⟶ = Drainge Arrow
- ▬ ▬ = Benefit District

PARCEL 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28", thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Saved 11-26-2014 10:23:08 AM by CAE
Plot Scale 1:200 11-26-2014 10:26:18 AM by CHRIS EPP
U:\Wichita-Civil\2014\14472\000\Muni\Drawings\Lot Split\14472-000-SWD Ph 2 Benefit District

35-14472-000-5703

STORMWATER DRAIN PETITION
PHASE 1

To the Mayor and City Council
Wichita, Kansas

468-85013
SWD#399

Dear Council Members:

1. I, the undersigned owner of record as below designated, of Lots, Parcels, and Tracts of real property described within an addition as follows:

CROSS POINTE 2ND
Parcel 1 and 3, Block 1
(Legal descriptions attached hereto)

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended:

(a) That there be constructed a stormwater detention pond adjacent to these two parcels in Block 1, Cross Pointe 2nd. That said detention pond be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) The estimated or probable cost of the proposed Improvements is: One Hundred Ten Thousand Dollars ($110,000), exclusive of interest on financing and administrative and financing costs; said estimated cost as above set forth is hereby increased at the pro rata of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Parcel 1 shall be assessed 7,296/10,000 of the project cost and Parcel 3 shall be assessed 2,704/10,000 of the project cost.

Where the ownership of a single parcel, lot or tract is or may be divided into two or more parcels, the assessment to the parcel, lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK 1 Parcel 1 Parcel 3	By: _____ Jerry Jones, Vice President	12/3/14

PARCEL 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of

Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

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Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND STORMWATER DRAIN PETITION - CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-002-0042** Prepared by: CSB Estimate Date: 11/1/2014

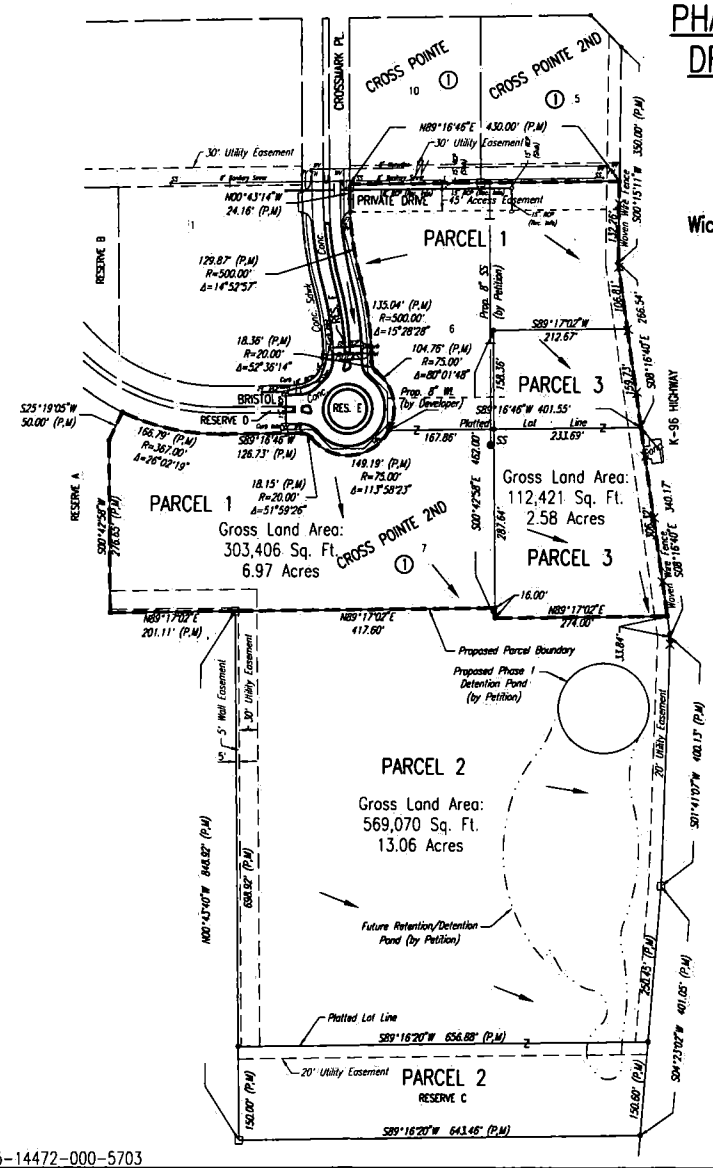
CROSS POINTE 2ND PHASE 1 STORMWATER DRAIN

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	Outfall Structure	1	EA	$ 15,000.00	$ 15,000.00
2	Excavation	10,000	CY	$ 5.00	$ 50,000.00
3	Erosion Control	1	LS	$ 3,500.00	$ 3,500.00
4	Site Clearing and Restoration	1	LS	$ 5,000.00	$ 5,000.00

	SubTotal Construction Cost	$	73,500.00
10%	Contingency Cost	$	7,350.00
	Total Construction Costs	$	80,850.000
30%	Project Cost	$	24,255.00
	Total Project Cost	**$**	**105,105.00**
	Use Petition Amount	$	110,000.00
	Parcel 1 Share	$	80,256.00
	Parcel 3 Share	$	29,744.00

PHASE 1 STORM WATER DRAIN IMPROVEMENTS BENEFIT DISTRICT

Lots 6 and 7, Block 1, Cross Pointe 2nd Wichita, Sedgwick County, Kansas



SCALE: 1" = 200'

0 200 400

DATE: July 22, 2014

LEGEND

- □ = Found 1/2" Rebar with Baughman Cap
- ○ = Found 1/2" Rebar with PEC Cap
- ● = Set 1/2" Rebar with PEC Cap
- P,M = Platted and Measured
- D,M = Described in Deed and Measured
- → = Drainge Arrow
- = Benefit District

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TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 308.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

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U:\Wichita-Civil\2014\14472\000\Muni\Drawings\Lot Split\14472-000-SWD Ph 1 Benefit District

35-14472-000-5703

8

WATERLINE PETITION
PHASE 2

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

448-90660

CROSS POINTE 2ND
Parcel 2, Block 1
(Legal description attached hereto)

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended as follows:

(a) That there be constructed a waterline, including necessary water mains, pipes, valves, hydrants and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements being Thirty One Thousand Dollars ($31,000), with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Parcel 2 shall be assessed 100% of the project cost.

Where the ownership of a single lot or parcel is or may be divided into two or more parcels, the assessment to the lot or parcel so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK 1 Parcel 2	By: _____ Jerry Jones, Vice President	12/3/14

PEC Project No. 35-14472-000-0042
Waterline Petition Phase 2 Parcel 2

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND WATERLINE PETITION** **CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-000-0042** Prepared by: CSB Estimate Date: 11/1/2014

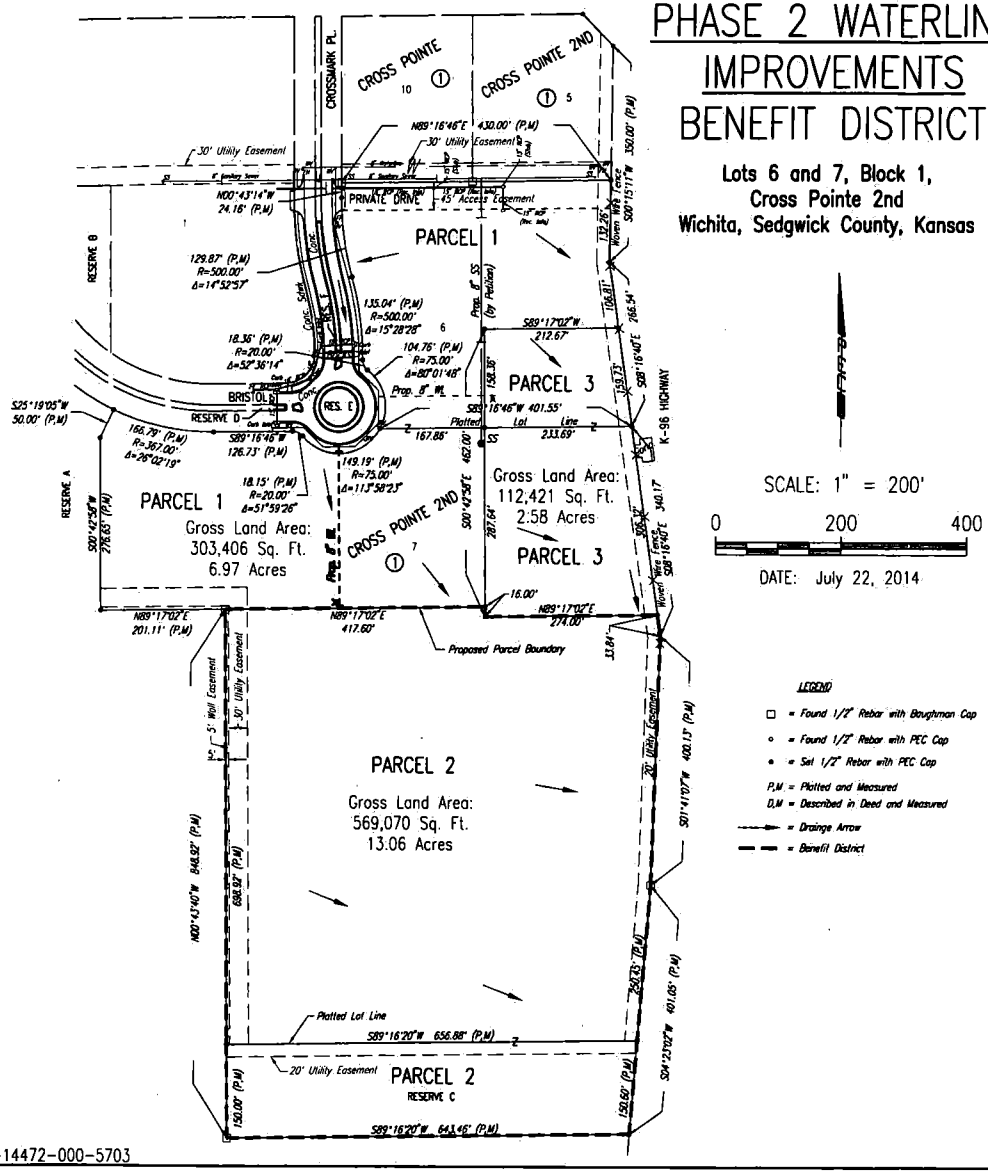
CROSS POINTE 2ND PHASE 2 WATERLINE

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	8"x8" Tapping Sleeve; 8" Tapping Valve & 6" Valve Box	1	EA	$ 3,000.00	$ 3,000.00
2	8" Waterline	300	LF	$ 30.00	$ 9,000.00
3	8" Anchored Valve Assembly (Special)	1	EA	$ 1,500.00	$ 1,500.00
4	Fire Hydrant Assembly	1	EA	$ 3,500.00	$ 3,500.00
5	Erosion Control	1	EA	$ 1,000.00	$ 1,000.00
6	Site Clearing and Restoration	1	LS	$ 3,000.00	$ 3,000.00

	SubTotal Construction Cost	$	21,000.00
10%	Contingency Cost	$	2,100.00
	Total Construction Costs	$	23,100.00
30%	Project Cost	$	6,930.00
	Total Project Cost	**$**	**30,030.00**
	Use Petition Amount	$	31,000.00
	Parcel 2 Share	$	31,000.00

PHASE 2 WATERLINE IMPROVEMENTS BENEFIT DISTRICT

Lots 6 and 7, Block 1, Cross Pointe 2nd
Wichita, Sedgwick County, Kansas


CROSS POINTE
CROSS POINTE 2ND
CROSSMARK PL.
PRIVATE DRIVE
BRISTOL
RESERVE D
RES. E
RESERVE B
RESERVE A
PARCEL 1
Gross Land Area:
303,406 Sq. Ft.
6.97 Acres
PARCEL 3
Gross Land Area:
112,421 Sq. Ft.
2.58 Acres
PARCEL 2
Gross Land Area:
569,070 Sq. Ft.
13.06 Acres
RESERVE C
K-96 HIGHWAY
Proposed Parcel Boundary
Platted Lot Line
30' Utility Easement
20' Utility Easement
15' Access Easement
N89°16'46"E 430.00' (P,M)
N00°43'14"W 24.16' (P,M)
S25°19'05"W 50.00' (P,M)
S89°16'46"W 126.73' (P,M)
N89°17'02"E 201.11' (P,M)
N89°17'02"E 417.60'
N89°17'02"E 274.00'
S89°16'20"W 656.88' (P,M)
S89°16'20"W 643.46' (P,M)
S89°17'02"W 212.67'
S89°16'46"W 401.55'
S00°15'11"W 350.00' (P,M)
S00°41'07"W 400.13' (P,M)
S04°23'02"W 401.05' (P,M)
N00°43'40"W 848.92' (P,M)
S00°42'58"W 276.65' (P,M)
S00°42'58"E 287.64'
S00°42'58"E 452.00'
S00°16'40"E 340.17'
S00°16'40"E 106.54'
S00°16'40"E 266.54'
129.87' (P,M) R=500.00' Δ=14°32'57"
135.04' (P,M) R=500.00' Δ=15°28'28"
18.36' (P,M) R=70.00' Δ=52°36'14"
104.76' (P,M) R=75.00' Δ=80°01'48"
166.79' (P,M) R=367.00' Δ=26°02'19"
149.19' (P,M) R=75.00' Δ=113°58'23"
18.15' (P,M) R=20.00' Δ=51°59'26"
Prop. 8" WL
Prop. 8" SS (by Petition)
Prop. 6" WL
Prop. 6" WL
Water Line
Sanitary Sewer
Curb Stop
Curb Inlet
Cleanout
Manhole
Fire Hydrant
Water Valve
Water Meter
Gas Valve
Gas Meter
Electric Box
Telephone Box
Cable Box
Light Pole
Power Pole
Guy Anchor
Sign
Mailbox
Tree
Fence
Concrete
Asphalt
Curb
Gutter
Edge of Pavement
Flowline
Top of Curb
Back of Curb
Sidewalk
Ramp
Crosswalk
Stop Bar
Pavement Marking
Pedestrian Signal
Traffic Signal
Street Light
Bollard
Barricade
Construction Fence
Silt Fence
Erosion Control
Grade Break
Spot Elevation
Contour
Drainage Arrow
Flow Line
Inlet
Manhole
Cleanout
Curb Stop
Curb Inlet
Grate Inlet
Area Inlet
Drop Inlet
Junction Box
Valve Box
Water Meter

WATERLINE PETITION
PHASE 1

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

448- 90659

CROSS POINTE 2ND
Parcel 3, Block 1
(Legal description attached hereto)

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended as follows:

(a) That there be constructed a waterline, including necessary water mains, pipes, valves, hydrants and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.

(b) That the estimated and probable cost of the foregoing improvements being Twenty Six Thousand Dollars ($26,000), with 100 percent payable by the improvement district. Said estimated cost as above setforth is hereby increased at the pro rata rate of 1 percent per month from and after November 1, 2014.

(c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

(d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a Fractional basis:

Parcel 3 shall be assessed 100% of the project cost.

Where the ownership of a single lot or parcel is or may be divided into two or more parcels, the assessment to the lot or parcel so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

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

LEGAL DESCRIPTION	SIGNATURE	DATE
CROSS POINTE 2ND	SLAWSON EAST INC.	
BLOCK 1 Parcel 3	By: _____ Jerry Jones, Vice President	12/3/14

PEC Project No. 35-14472-000-0042
Waterline Petition Phase 1 Parcel 3

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Professional Engineering Consultants, P.A. 303 S. Topeka Wichita, Kansas 67202 Phone (316)262-2691	**CROSS POINTE 2ND WATERLINE PETITION** **CITY OF WICHITA, KS** **PEC PROJECT NO. 35-14472-000-0042** Prepared by: CSB Estimate Date: 11/1/2014

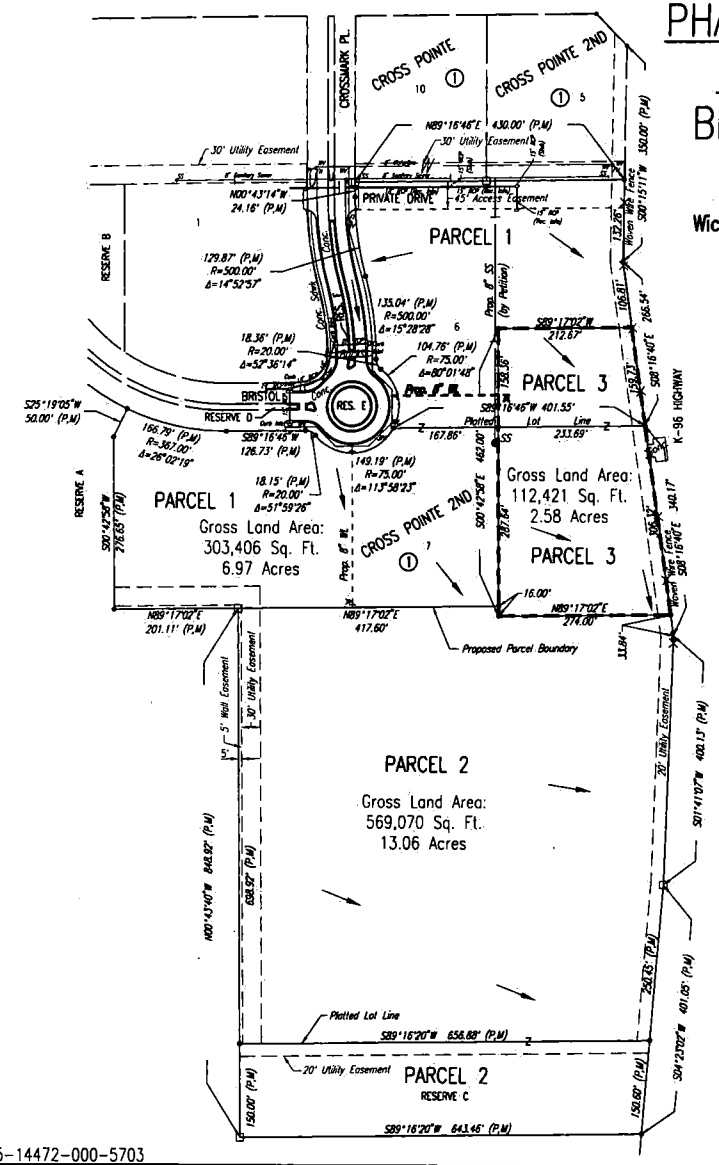
CROSS POINTE 2ND PHASE 1 WATERLINE

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST
1	8"x8" Tapping Sleeve; 8" Tapping Valve & 6" Valve Box	1	EA	$ 3,000.00	$ 3,000.00
2	8" Waterline	200	LF	$ 30.00	$ 6,000.00
3	8" Anchored Valve Assembly (Special)	1	EA	$ 1,500.00	$ 1,500.00
4	Fire Hydrant Assembly	1	EA	$ 3,500.00	$ 3,500.00
5	Erosion Protection	1	LS	$ 1,000.00	$ 1,000.00
6	Site Clearing and Restoration	1	LS	$ 3,000.00	$ 3,000.00

	SubTotal Construction Cost	$ 18,000.00
10%	Contingency Cost	$ 1,800.00
	Total Construction Costs	$ 19,800.00
30%	Project Cost	$ 5,940.00
	Total Project Cost	**$ 25,740.00**
	Use Petition Amount	$ 26,000.00
	Parcel 3 Share	$ 26,000.00

PHASE 1 WATERLINE IMPROVEMENTS BENEFIT DISTRICT

Lots 6 and 7, Block 1, Cross Pointe 2nd
Wichita, Sedgwick County, Kansas



SCALE: 1" = 200'

0 200 400

DATE: July 22, 2014

PARCEL 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

PARCEL 2

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said Lot 7 for a distance of 898.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less;

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

PARCEL 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Saved 11-26-2014 10:21:05 AM by CAE
Plot Scale 1:200 11-26-2014 10:27:03 AM by CHRIS EPP
U:\Wichita-Civil\2014\14472\000\Muni\Drawings\Lot Split\14472-000-WL Benefit District Parcel 3

35-14472-000-5703

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-039

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90659 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90659 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90659 (south of 21st St. North, east of Greenwich).**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Twenty-Six Thousand Dollars ($26,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND
Parcel 3, Block 1
(Legal description attached hereto)

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Parcel 3 shall be assessed 100% of the project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended (the "Act").

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 10. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

Cross Pointe 2nd
Parcel 3, Block 1

A portion of Lots 6 and 7, Block 1, Cross pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16’46” West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42’58” West for a distance of 158.36 feet; thence bearing North 89°17’02” East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16’40” East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16’40” East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17’02” West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42’58” West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16’46” East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-040

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 6, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST, EAST OF GREENWICH) 468-84045,** 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 6, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST, EAST OF GREENWICH) 468-84045,** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 05-337** adopted on **June 28, 2005** and Resolution No. **07-711** adopted on **December 11, 2007** are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Lateral 6, Main 16, Four Mile Creek Sewer (south of 21st, east of Greenwich) 468-84045.**

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 **Sixty-Five Thousand Dollars ($65,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND
Parcels 1 and 3
(Legal description attached hereto)

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Parcel 1 shall be assessed 7,296/10,000 of the total project cost and Parcel 3 shall be assessed 2,704/10,000 of the total project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 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 (the “Act”).

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 11. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

CROSS POINTE 2ND

Parcel 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

CROSS POINTE 2ND
Parcel 3

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-041

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 14, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH) 468-85012** 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 14, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH) 468-85012** 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 14, Main 16, Four Mile Creek Sewer (south of 21st St. North, east of Greenwich) 468-85012.**

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 **One Hundred Fifty Thousand Dollars ($150,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND
Lot 1, Block 1
Parcel 2
(Legal description attached hereto)

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lot 1, Block 1, shall be assessed 5,487/10,000 of the total project cost and Parcel 2 shall be assessed 4,513/10,000 of the total project costs.

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 (the “Act”).

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 10. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

Cross Pointe 2nd
Parcel 2, Block 1

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:
Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16'20" West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43'40" West along the west line of said lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42'58" East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17'02" East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16'40" East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41'07" West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23'02" West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less.
TOGETHER WITH
Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.
Said Parcel 2 encompasses a total of 13.06 acres, more or less.

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-042

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING **STORM WATER DRAIN NO. 399 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH) 468-85013** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF **STORM WATER DRAIN NO. 399 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH) 468-85013** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Storm Water Drain No. 399 (south of 21st St. North, east of Greenwich) 468-85013.**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **One Hundred Ten Thousand Dollars ($110,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND ADDITION
Parcel 1 and 3, Block 1
(Legal Description attached hereto)

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:

Parcel 1 shall be assessed 7,296/10,000 of the project cost and Parcel 3 shall be assessed 2,704/10,000 of the project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended (the "Act").

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 10. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW & CITY ATTORNEY

CROSS POINTE 2ND
Parcel 1, Block 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the northeast corner of Lot 6, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 0°15'11" West as platted in said Cross Pointe 2nd, along the east line of said Lot 6 for a distance of 132.26 feet to a deflection in the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 106.81 feet; thence bearing South 89°17'02" West for a distance of 212.67 feet; thence bearing South 0°42'58" East for a distance of 158.36 feet to the south line of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 167.86 feet to a non-tangent curve to the left having a radius of 75.00 feet, a central angle of 80°01'47", a chord bearing of North 12°43'04" West and a chord distance of 96.45 feet; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 104.76 feet to a curve to the right having a radius of 20.00 feet and a central angle of 52°36'14"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 18.36 feet to a curve to the left having a radius of 500.00 feet and a central angle of 15°28'28"; thence northerly along the westerly line of said Lot 6 on said curve to the left for a distance of 135.04 feet to a curve to the right having a radius of 500.00 feet and a central angle of 14°52'57"; thence northerly along the westerly line of said Lot 6 on said curve to the right for a distance of 129.87 feet; thence bearing North 0°43'14" West along the west line of said Lot 6 to the northwest corner of said Lot 6; thence bearing North 89°16'46" East along the north line of said Lot 6 to the Point of Beginning; containing 2.94 acres, more or less;

TOGETHER WITH

Beginning at the northwest corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, said Point of Beginning being on the southerly right-of-way line of Bristol Street; thence bearing South 25°19'05" West as platted in said Cross Pointe 2nd, along the westerly line of said Lot 7 for a distance of 50.00 feet to a deflection in the westerly line of said Lot 7; thence bearing South 0°42'58" West along the west line of said Lot 7 for a distance of 276.65 feet to a southwest corner of said Lot 7; thence bearing North 89°17'02" East along a south line of said Lot 7 for a distance of 201.11 feet to a corner of said Lot 7; thence continuing on said bearing of North 89°17'02" East for a distance of 417.60 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 287.64 feet to the north line of said Lot 7; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 167.86 feet to a non-tangent curve to the right having a radius of 75.00 feet, a central angle of 113°58'23", a chord bearing of South 84°17'01" West and a chord distance of 125.78 feet; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 149.19 feet to a curve to the left having a radius of 20.00 feet and a central angle of 51°59'26"; thence westerly along the northerly line of said Lot 7 on said curve to the left for a distance of 18.15 feet; thence bearing South 89°16'46" West along the north line of said Lot 7 for a distance of 126.73 feet to a curve to the right having a radius of 367.00 feet and a central angle of 26°02'19"; thence westerly along the northerly line of said Lot 7 on said curve to the right for a distance of 166.79 feet to the Point of Beginning; containing 4.03 acres, more or less.

Said Parcel 1 encompasses a total of 6.97 acres, more or less.

CROSS POINTE 2ND
Parcel 3, Block 1

A portion of Lots 6 and 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16'46" West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42'58" West for a distance of 158.36 feet; thence bearing North 89°17'02" East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16'40" East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16'40" East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17'02" West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42'58" West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16'46" East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-043

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING **STORM WATER DRAIN NO. 273 (SOUTH OF 21ST, EAST OF GREENWICH) 468-84048** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **STORM WATER DRAIN NO. 273 (SOUTH OF 21ST, EAST OF GREENWICH) 468-84048** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 05-340** adopted on **June 28, 2005** and Resolution No. **07-713** adopted on **December 11, 2007** are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve **Storm Water Drain No. 273 (south of 21st, east of Greenwich) 468-84048.**

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **Three Hundred Eighty Thousand Dollars ($380,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014,** 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:

CROSS POINTE 2ND
Parcel 2, Block 1
(Legal description attached hereto)

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Parcel 2 shall be assessed 100% of the project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 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 (the “Act”).

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 11. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

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PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

Cross Pointe 2nd
Parcel 2, Block 1

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16’20” West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43’40” West along the west line of said lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17’02” East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42’58” East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17’02” East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16’40” East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41’07” West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23’02” West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less.

TOGETHER WITH

Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

132019

First Published in the Wichita Eagle on February 13, 2015

RESOLUTION NO. 15-044

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90660 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90660 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90660 (south of 21st St. North, east of Greenwich).**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Thirty-One Thousand Dollars ($31,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND
Parcel 2, Block 1
(Legal description attached hereto)

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Parcel 2 shall be assessed 100% of the project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended (the "Act").

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 10. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of February, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

Cross Pointe 2nd
Parcel 2, Block 1

A portion of Lot 7 and Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence South 89°16’20” West as platted in said Cross Pointe 2nd, along the south line of said Lot 7 for a distance of 656.88 feet to the southwest corner of said Lot 7; thence North 0°43’40” West along the west line of said Lot 7 for a distance of 698.92 feet to a corner of said Lot 7; thence bearing North 89°17’02” East for a distance of 417.60 feet; thence deflecting at a right angle, bearing South 0°42’58” East for a distance of 16.00 feet; thence deflecting at a right angle, bearing North 89°17’02” East for a distance of 274.00 feet to the east line of said Lot 7; thence bearing South 8°16’40” East along the east line of said Lot 7 for a distance of 33.84 feet to a deflection in the east line of said Lot 7; thence bearing South 1°41’07” West along the east line of said Lot 7 for a distance of 400.13 feet to a deflection in the east line of said Lot 7; thence bearing South 4°23’02” West along the east line of said Lot 7 for a distance of 250.45 feet to the Point of Beginning; containing 10.83 acres, more or less.

TOGETHER WITH
Reserve C, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; containing 2.24 acres, more or less.

Said Parcel 2 encompasses a total of 13.06 acres, more or less.

132019

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90659 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **WATER DISTRIBUTION SYSTEM NUMBER 448-90659 (SOUTH OF 21ST ST. NORTH, EAST OF GREENWICH)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve **Water Distribution System Number 448-90659 (south of 21st St. North, east of Greenwich).**

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be **Twenty-Six Thousand Dollars ($26,000)** exclusive of interest on financing and administrative and financing costs, 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 **November 1, 2014**, 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:

CROSS POINTE 2ND
Parcel 3, Block 1
(Legal description attached hereto)

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Parcel 3 shall be assessed 100% of the project cost.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended (the "Act").

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. The Act provides for the Improvements to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation 1.150-2.

SECTION 10. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

PASSED by the governing body of the City of Wichita, Kansas, this _____day of_____, 2015.

_____
CARL BREWER, MAYOR

ATTEST:

_____
KAREN SUBLETT, CITY CLERK
(SEAL)

APPROVED AS TO FORM:

_____
SHARON L. DICKGRAFE
INTERIM DIRECTOR OF LAW AND CITY ATTORNEY

Cross Pointe 2nd
Parcel 3, Block 1

A portion of Lots 6 and 7, Block 1, Cross pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas, more particularly described as:

Beginning at the southeast corner of said Lot 6; thence bearing South 89°16’46” West along the south line of said Lot 6 for a distance of 233.69 feet; thence bearing North 0°42’58” West for a distance of 158.36 feet; thence bearing North 89°17’02” East for a distance of 212.67 feet to the east line of said Lot 6; thence bearing South 8°16’40” East along the east line of said Lot 6 for a distance of 159.73 feet to the Point of Beginning; encompassing 0.81 acres, more or less;

TOGETHER WITH

Beginning at the northeast corner of Lot 7, Block 1, Cross Pointe 2nd, an Addition to Wichita, Sedgwick County, Kansas; thence bearing South 8°16’40” East as platted in said Cross Pointe 2nd, along the east line of said Lot 7 for a distance of 306.32 feet; thence bearing South 89°17’02” West for a distance of 274.00 feet; thence deflecting at a right angle, bearing North 0°42’58” West for a distance of 303.64 feet to the north line of said Lot 7; thence bearing North 89°16’46” East along the north line of said Lot 7 for a distance of 233.69 feet to the Point of Beginning; encompassing 1.77 acres, more or less.

Said Parcel 3 encompasses a total of 2.58 acres, more or less.

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 468-85012

FUND: 480 Sewer Improvements N.I. SUBFUND: 480 Sanitary Sewers N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: Lat 14, M 16, FMC for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: Lat 14, M 16, FMC for Cross Pointe 2nd Addition

OCA # : OCA TITLE: Lat 14, M 16, FMC for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$150,000.00	2999 Contractuals	$150,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$150,000.00	**EXPENSE TOTAL:**	$150,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jany DATE: 01/15/15

DEPARTMENT HEAD: Alan Ing DATE: 1/15/15

BUDGET OFFICER: Cheryl L Burada DATE: 1/26/15

CITY MANAGER: DATE:

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 448-90659

FUND: 470 Water Improvements N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: WDS 90659 for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: WDS 90659 for Cross Pointe 2nd Addition

OCA # : OCA TITLE: WDS 90659 for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$26,000.00	2999 Contractuals	$26,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$26,000.00	**EXPENSE TOTAL:**	$26,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jones DATE: 01/15/15

DEPARTMENT HEAD: Alan Vi DATE: 1/15/15

BUDGET OFFICER: Cheryl L Busada DATE: 1/26/15

CITY MANAGER: DATE:

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 448-90660

FUND: 470 Water Improvements N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: WDS 90660 for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: WDS 90660 for Cross Pointe 2nd Addition

OCA # : OCA TITLE: WDS 90660 for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$31,000.00	2999 Contractuals	$31,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$31,000.00	**EXPENSE TOTAL:**	$31,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jones DATE: 01/15/15

DEPARTMENT HEAD: Alan Ng DATE: 1/15/15

BUDGET OFFICER: Cheryl L Buseda DATE: 1/20/15

CITY MANAGER: DATE:

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 468-85013

FUND: 480 Sewer Improvements N.I. SUBFUND: 485 Storm Drainage N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: SWD 399 for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: SWD 399 for Cross Pointe 2nd Addition

OCA # : OCA TITLE: SWD 399 for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$110,000.00	2999 Contractuals	$110,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$110,000.00	**EXPENSE TOTAL:**	$110,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jarvis DATE: 01/15/15

DEPARTMENT HEAD: J Alaniz DATE: 1/15/15

BUDGET OFFICER: Cheryl L Busada DATE: 1/20/15

CITY MANAGER: DATE:

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 468-84045

FUND: 480 Sewer Improvements N.I. SUBFUND: 480 Sanitary Sewers N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: Lat 6, M 16, FMC for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: Lat 6, M 16, FMC for Cross Pointe 2nd Addition

OCA # : OCA TITLE: Lat 6, M 16, FMC for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$65,000.00	2999 Contractuals	$65,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$65,000.00	**EXPENSE TOTAL:**	$65,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jany DATE: 01/15/15

DEPARTMENT HEAD: Gary Jany DATE: 1/15/15

BUDGET OFFICER: Cheryl L Bustada DATE: 1/20/15

CITY MANAGER: DATE:

Project Request

○ CIP ◉ Non-CIP

☒ NEIGHBORHOOD IMPROVEMENT ○ ORDERED BY WCC ◉ PETITION PETITION PERCENTAGE: 100

DEPARTMENT: 13 Public Works & Utilities DIVISION: Engineering RESOLUTION/ORDINANCE #: 15-

ENGINEERING REFERENCE #: 468-84048

FUND: 480 Sewer Improvements N.I. SUBFUND: 485 Storm Drainage N.I.

COUNCIL DISTRICT: 02 Council District 2 DATE COUNCIL APPROVED: Feb 3, 2015 REQUEST DATE:

PROJECT # : PROJECT TITLE: SWD 273 for Cross Pointe 2nd Addition

PROJECT DETAIL # : 01 PROJECT DETAIL DESCRIPTION: SWD 273 for Cross Pointe 2nd Addition

OCA # : OCA TITLE: SWD 273 for Cross Pointe 2nd Addition

PERSON COMPLETING FORM: Joni Chamberlain PHONE #: 268-4548

PROJECT MANAGER: Julianne Kallman PHONE #: 268-4236

◉ NEW BUDGET ○ REVISED BUDGET

REVENUE		EXPENSE	
Object Level 3	**Budget**	**Object Level 3**	**Budget**
9730 S.A. Bonds	$380,000.00	2999 Contractuals	$380,000.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
	$0.00		$0.00
REVENUE TOTAL:	$380,000.00	**EXPENSE TOTAL:**	$380,000.00

NOTES: HOLD FOR LOC

Print Form

SIGNATURES REQUIRED

DIVISION HEAD: Gary Jany DATE: 01/15/15

DEPARTMENT HEAD: Alan DATE: 1/15/15

BUDGET OFFICER: Cheryl L Bussada DATE: 1/26/15

CITY MANAGER: DATE:

AMENDED PROJECT STATEMENT OF COST

Revised 1-22-2015

Approved /Accepted by City Council

Wichita, Kansas
February 10, 2015
472-84992
OCA# 766265
PPN# 490-283

City Clerk
Wichita, Kansas

Dear City Clerk:

Following is the cost of constructing:

Paving on 36th Street North to serve Agnes Addition, House of Stewarts Addition, James C. Green Addition, and unplatted tracts (south of 37th Street North, east of Arkansas)

Contract Amount	$181,693.10
Water Department Parts and Installation	$0.00
Administration	$6,627.87
Engineering & Inspection	$52,531.44
Publication	$432.30
Abstract	$20.00
Construction Cost	$241,304.71
Idle Fund Interest Estimated	$109.70
Temporary Financing Estimated	$185.59
Subtotal	$241,600.00
Main Benefit Fee (Water or Sewer projects only)	$0.00
Driveways Assessed to Property	$15,704.50
Driveways Included in Project	$4,816.00
TOTAL COST	$262,120.50

Respectfully Submitted,

Gary Janzen, P.E., City Engineer

Property	$225,292.50
GO	$36,828.00
Benefit Fee	$0.00

September 15, 2015
Chesney 816
15 years

Petition/Resolution Amount:	$258,500.00
Increase by 1% per month after:	March 1, 2011

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Sample Collection and Analysis for Brooks Landfill – Professional Services Contract (District V)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the contract.

Background: Brooks Landfill holds a solid waste landfill permit from the Kansas Department of Health and Environment (KDHE). As a condition of this permit, the City of Wichita is required to have the groundwater and surface water at Brooks Landfill tested for quarterly reporting to the KDHE. The vendor which provided sample collection and analysis services at Brooks Landfill in 2013 and 2014 recently notified the City that it did not wish to exercise its renewal options for 2015 and 2016. The contract with the City expired on December 31, 2014.

Analysis: Proposals were evaluated and ranked in 2012 by a selection committee comprised of City staff. The committee's second choice vendor was Continental Analytical Services, Inc., a company which already contracts with the City for other similar services. Through the existing contract with the City, Continental Analytical Services has demonstrated professional competency. City staff from the Finance, Law, and Public Works & Utilities Departments have determined that the best course of action is to redirect the sampling and analysis work for Brooks Landfill to Continental Analytical Services for the duration of the two one-year contract options originally offered to the previous vendor.

Financial Considerations: The duration of the new contract is one year, with an option for one additional one-year extension. Based upon the specific tasks to be performed under the Scope of Services, the not-to-exceed cost is $40,936 for sample collection and analysis services for Brooks Landfill to be provided in 2015 and $19,483 for services to be provided in 2016 if both the City and the vendor agree to the one year extension. The proposed cost of $40,936 for 2015 from Continental Analytical Services includes additional testing parameters required every 5 years which were last performed in 2010. In 2010, Continental Analytical Services performed this work at a cost of $38,069. The new agreement results in an increase of 7.5% for this work over the cost of the same work in 2010. Comparison of the estimated costs for 2016 between the former vendor and Continental Analytical Services results in an estimated 8.2% increase ($18,001 to $19,483) in laboratory costs. These costs are typical for the services being provided.

Funding to cover these laboratory costs is included in the Landfill Post-Closure budget to cover the cost of this contract.

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

Recommendations/Actions: It is recommended that the City Council approve the contract with Continental Analytical Services and authorize the necessary signatures.

Attachment: Contract.

BP_____

CONTRACT
FOR
SAMPLE COLLECTION & ANALYSIS FOR BROOKS LANDFILL

THIS CONTRACT, made this _____ day of _____ 2015, by and between **THE CITY OF WICHITA, KANSAS**, a Municipal Corporation, hereinafter called the **"CITY"** and **CONTINENTAL ANALYTICAL SERVICES, INC.**, 525 North Eights Street, Salina, Kansas 67401, hereinafter called **"VENDOR"**.

WITNESSETH THAT:

WHEREAS, the VENDOR provided a proposal dated October 8, 2012, in response to the CITY's request for proposal FP240067 and the CITY has selected the VENDOR based on their proposal and agrees to pay VENDOR according to the prices quoted within the VENDOR's proposal, attached hereto as Exhibit A and incorporated herein, for sample collection & analysis for Brooks Landfill (Group 2).

WHEREAS, the VENDOR has available and offers to provide personnel and laboratory services necessary to accomplish the CITY's work within the required time, and will perform such work as specified in the protocols provided in the request for proposal FP240067; and

WHEREAS, the CITY is authorized by law to employ VENDORS to assist with the work in order to implement and fulfill the CITY's duties and services.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

A. Under this contract, VENDOR will provide the CITY with groundwater sample collection and chemical analysis for Brooks Landfill. VENDOR will provide all equipment, materials, and labor to perform all specified sample collection and analyses in accordance with all applicable laws and regulation. VENDOR will also continue to provide technical support to the CITY in meeting the analytical testing requirements of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, NPDES requirements, and Brooks Landfill Sampling and Analysis Plan. We have carefully reviewed and will comply with the requirements of the Request for Proposal.
B. The price schedule presented in the Proposal will be valid for the contract period of one year from the contract date and one additional one-year renewal. The VENDOR understands that the terms and conditions of the contract will remain unchanged. The CITY agrees to pay the VENDOR up to $40,935.50 for sample collection and analysis services performed in 2015, to include assessment monitoring, performance monitoring, and analysis of full appendix II parameters. The CITY agrees to pay the VENDOR up to $19,483 for sample collection and analysis services performed in 2016, to include assessment monitoring and performance monitoring, contingent upon contract renewal.
C. If, during the contract period, the CITY requires additional testing, the requirements must be provided to VENDOR in writing. Any additions or changes to this contract must be mutually agreed to in writing by both parties before becoming part of this contract.

D. The VENDOR further warrants fault free performance of the services contracted herein regardless of the existence of hardware, software, or firmware failure experienced by the VENDOR, or any of its agents or suppliers.

E. The VENDOR, in performing the work under this contract, agrees to comply with the provisions of the "Revised Non-Discrimination and Equal Employment Opportunity Statement for Contracts or Agreements" of the CITY of Wichita, a copy of which is attached to this Contract.

F. The VENDOR shall insure that the detection limits for all analytical parameters meet or exceed those required limits; VENDOR shall modify, adjust, and/or sub-contract out analyses to a laboratory approved by the CITY, to assure the CITY remains in compliance with all applicable regulations.

G. The CITY reserves the right to cancel or modify the list of water test parameters used to stay in compliance with all statutes, rules and regulations governing the testing and monitoring of groundwater for Title D landfills. The CITY may accept or reject additional costs presented by VENDOR caused by a change in testing parameters. If the CITY finds the additional costs acceptable, it will amend the contract accordingly.

H. The VENDOR agrees not to sub-contract or assign this Contract without the written permission of the CITY.

I. The VENDOR shall save and hold the CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions, or negligent acts of VENDOR, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract.

J. The VENDOR will carry insurance coverage during the term of this Contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability Covering premises-operations, (explosion, collapse and underground) hazards when applicable.

Bodily Injury Liability	$500,000 each occurrence $500,000 each aggregate
Property Damage Liability	$500,000 each occurrence $500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$500,000 each occurrence $500,000 each aggregate

2. Automotive Liability-Comprehensive Form including all owned, hired, and non-owned vehicles with minimum limits for:

Bodily Injury Liability	$500,000 each accident
Property Damage Liability	$500,000 each accident
Or	
Bodily Injury and Property Damage	$500,000 each accident

3. Workers' Compensation Employers' Liability for minimum limits of:

   Employers' Liability $100,000 each accident

K. If VENDOR abandons, delays unnecessarily in the performance of, or in any manner refuses or fails to comply with any of the terms of this contract, the CITY may notify the seller in writing of such abandonment, unnecessary delay, refusal, or failure to comply with the terms of the Contract. If such abandonment, delay or failure to comply is not thereafter corrected by Seller within twenty-four (24) hours of receiving such written notice, the CITY may declare the contract to be in default. This Contract is subject to cancellation by the CITY upon thirty (30) days written notice.

L. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of the Contract to make the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit or damages pursuant to the terms of the provisions of this Contract.

This contract is to be in effect from _____ through _____, with the CITY having an option to renew the Contract under the same terms and conditions for one additional one-year period by mutual agreement of the parties.

Executed at Wichita, Kansas this _____ day of _____ 2015.

CITY OF WICHITA, KANSAS

_____

Carl Brewer, Mayor

ATTEST:

_____

Karen Sublett, CITY Clerk

APPROVED TO FORM:

Sharon Dickgrafe, Interim Director of Law

CONTINENTAL ANALYTICAL SERVICES, INC.

Clifford J. Baker

Clifford J. Baker, President

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Design Services Agreement for Waterfront Seventh Addition (District II)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the agreement.

Background: On December 9, 2014, the City Council approved petitions for water, sanitary sewer, drainage, and paving improvements to serve a new residential development located north of 13th Street North, east of Webb Road.

Analysis: The proposed agreement between the City and Baughman Company provides for design of the improvements. In accordance with Administrative Regulation 1.10, Baughman is an engineering consultant upon whom the City and developer mutually agree for this work, and, as this firm provided the preliminary engineering services for the platting of the subdivision, can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of $90,000 and will be paid by special assessments.

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

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

Attachments: Agreement.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

WATERFRONT 7TH ADDITION

THIS AGREEMENT, made this _____ day of _____, 2015, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90654 serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 448-90654_735523).

STORM WATER SEWER #688 serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 468-85004_751530).

LATERAL 63, MAIN 24 WAR INDUSTRIES SEWER serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 468-85003_744381).

RED OAKS, SUMMERFIELD, CRESTWOOD serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 472-85188_766329).

STREET LIGHTING FOR RED OAKS, SUMMERFIELD, CRESTWOOD serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 472-85191_766327).

RED OAKS serving Lots 3 through 33, Block A, Lots 1 through 11, Block B, Waterfront 7th Addition (north of 13th St N, east of Webb Rd) (Project No. 472-85190_766330).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Waterfront 7th Addition and to perform the project tasks outlined in the SCOPE OF SERVICES (**Exhibit "A"**).

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in **Exhibit "A"**.

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in **Exhibit "B"** which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with **Exhibit "A"**; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than $500,000.00 subject to a deductible of $10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - $500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than $500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the project now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the project; however, reproduction costs are the responsibility of the ENGINEER, except as specified in **Exhibit "A".**

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90654	$ 8,200
Project No. 468 85004	$ 19,600
Project No. 468 85003	$ 17,200
Project No. 472 85188	$ 25,000
Project No. 472 85191	$ 10,200
Project No. 472 85190	$ 9,800
TOTAL	$ 90,000

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the project such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the project.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the project.
4. A major change in the scope of services for the project.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the project is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the project shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY.

Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the project.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carl Brewer, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Sharon L. Dickgrafe, Interim City Attorney and Director of Law

BAUGHMAN COMPANY, P.A.

N. Brent Wooten, P.E.
President

ATTEST:

Kelly Thomas

EXHIBIT "A"

SCOPE OF SERVICES

Waterfront 7th Addition
(north of 13th St N, east of Webb Rd)
(Project No. 448-90654, 468-85004, 468-85003, 472-85188, 472-85191, 472-85190)

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared per **Attachment No. 1 to Exhibit "A".**

In connection with the services to be provided, the ENGINEER shall:

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the project limits prior to the ENGINEER conducting the field survey for the project. Utility information shall be clearly noted and identified on the plans.
2. Storm Water Pollution Prevention. On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per **Attachment No. 1 to Exhibit "A".**
3. Soils and Foundation Investigations. The CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the project, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
5. Drainage Study. When applicable, conduct a detailed study to explore alternative design concepts concerning drainage for the project. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of final check plans. Such written findings and recommendations must be in a format which is self explanatory and readily understood by persons with average backgrounds for the technology involved.
6. Plans & Specifications. Prepare engineering plans, plan quantities and supplemental specifications as required. Pay items of work shall conform to the CITY's Master Bid Item List. Engineering plans will include incidental drainage where required and permanent traffic signing. The project's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 6.5, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A".** The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
7. Landscaping. Where landscaping may be required along arterial streets, ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the Consultants' Design Team.
8. Property Acquisition. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the setting monuments of new corners for any additional right-of-way and a one time marking of

the right-of-way for utility relocations. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

9. Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms **(Attachment No. 3 to Exhibit "A") at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER.** This information will be compiled into a summary report **(Attachment No. 4 to Exhibit "A", also available on the City's FTP site)** maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
10. Staking Information. All applicable coordinate control points and related project staking information shall be furnished on a map on the plans, as well on CD-ROM, as a text file, along with the project PDF's. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
11. Shop Drawings. All shop drawings submitted by the contractor for the project shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the project.
12. Public Meeting. The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
13. New Right-of-Way Monumentation. The ENGINEER shall complete permanent monumentation of all new right-of-way, and complete and submit all necessary legal documentation for same.
14. Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.
15. Permits. The ENGINEER shall prepare any and all necessary permits for this project, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
16. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
    (a) Field check plans of the project for distribution to utilities by February 23, 2015
    (b) Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by April 20, 2015

Attachment No. 1 to Exhibit "A" – Scope of Services

Plan Submittal

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

Storm Water Pollution Prevention

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City, prior to bidding. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita
Storm Water Division
455 N. Main 8th Floor
Wichita, KS 67202

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must also include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate. Bidding erosion control as "1 LS" is not allowed.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

Attachment No. 2 to Exhibit "A" – CIP Scope of Services

Required Plan Coordinate Information

Arterial Street Projects & Infill (Existing Neighborhoods)

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

II. WATER LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

IV. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.

Sub-Division Projects

I. SANITARY SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

II. WATER DISTRIBUTION SYSTEM

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

III. WATER SUPPLY LINE

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

IV. STORM SEWER

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

V. MASS GRADING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
    - centerline @ 100' Sta on tangent sections
    - pc/pt points & 50' along curves
- special drainage swales
    - pc/pt points, pi's & 50' Sta in between
- ponds
    - any grades breaks between pond bottom and rear property line
    - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

VI. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves. **ELEVATION SHALL BE TO TOP OF ROCK BASE**.
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs
- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

Project Name

Utility Location Verification Non-CIP Project

Projected Bid Date: ☐

UTILITY: _____ **Checked by** _____ **on** _____

Utility Location:

☐ None in Project Limits ☐ In Project Limits, No Relocation Necessary

☐ Utility will need to relocate ☐ Other (please describe)

Briefly Describe Type and Location of Facilities within Project:

_____

_____

Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: _____

Utility Plan Review:

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

_____

_____

Additional Information requested from Consultant: _____

_____

Please email this form on or before ☐ **to:** ☐

If relocation is necessary:

Estimated clear date: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Upon completion of relocation:

Relocation complete on: _____

Completed by _____ **(utility representative) on** _____ **(date)**

Attachment No.4 to Exhibit "A" - Scope of Services

Individual Project Name (i.e., Amidon, 21st to 29th Street North)												
Current Date	KDOT Proj. NO/ City Proj. NO	City Design Manager	Consultant	Date of First ULCC	Date of Second ULCC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date Utilities notified of R/W completion	Project Proposed Bid Date	Proposed Utility Clear Date (project)
2/21/2013	111111/ 222222	Kallman	Ken Lee/ Ruggles & Rohm	2/21/2013	2/21/2013			No			

Utility Contact	Utility needs to relocate (Y/N)	Utility in Private Easement (Y/N)	Utility needs PROPOSED R/W to relocate (Y/N)	Relocation Weather Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
Westar (Distribution)							
Location in Project: (Describe Existing Facilities)							
Relocation Needs:							
Comments:							
Westar (Transmission)							
Location in Project: (Describe Existing Facilities)							
Relocation Needs:							
Comments:							

KGS
Location in Project: **(Describe Existing Facilities)**
Relocation Needs:
Comments:
Black Hills
Location in Project: **(Describe Existing Facilities)**
Relocation Needs:
Comments:
AT&T
Location in Project: **(Describe Existing Facilities)**
Relocation Needs:
Comments:

Cox
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Water
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Sewer
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

Stormwater
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Other
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

EXHIBIT "B"

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

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

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

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

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

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be

deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

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

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

D. Exempted from these requirements are:

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

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

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Supplemental Design Agreement No. 3 for Redbud Multi-Use Path (District I)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the supplemental agreement.

Background: On September 13, 2011, the City Council approved an agreement with Baughman Company which provided for design of a multi-use path from Hydraulic, near Murdock, to the intersection of 17th and Oliver, along an abandoned railroad corridor. The design concept was approved by the City Council on December 11, 2012. The following supplemental agreements have been approved by the City Council to date.

Agreement No.	Date Approved	Services Provided	Cost
Original	September 13, 2011	Original design services agreement.	$166,820
1	March 5, 2013	Design of artistic elements to be integrated into pause points and trailheads along the path.	$100,000
2	July 22, 2014	Design revisions required to reduce construction costs following a failed bid attempt.	$10,000

Total design fee to date: $276,820

Analysis: Design work is complete and the project is now entering the construction phase. Due to the specific nature of the artistic elements, as well as the complexity of the improvements, it is recommended that Baughman provide the necessary construction staking for the project, as well as coordination and inspection services for the art elements. A supplemental agreement has been prepared to provide the additional services.

Financial Considerations: The cost of the additional services is $46,800. With this supplemental agreement, the total design fee will be $323,620. Funding is available within the existing project budget, which was approved by the City Council on January 27, 2015.

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

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

Attachments: Supplemental Agreement No. 3.

SUPPLEMENTAL AGREEMENT #3

TO THE

AGREEMENT FOR PROFESSIONAL SERVICES DATED SEPTEMBER 13, 2011

BETWEEN

THE CITY OF WICHITA, KANSAS

PARTY OF THE FIRST PART, HEREINAFTER CALLED THE

"CITY"

AND

BAUGHMAN COMPANY, P.A.

PARTY OF THE SECOND PART, HEREINAFTER CALLED THE

"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated September 13, 2011) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements to **REDBUD MULTI-USE PATH** (Project No. 472-85007)

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

Construction Staking and Coordination/Inspection Services for
all Artistic Elements

B. PAYMENT PROVISIONS

The fee in Section IV. A. shall be amended to include the following:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement will increase the total contract by **$46,800.00.**

C. COMPLETION

The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY by _____;
EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions of inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

D. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the original Contract, not specifically modified by this Supplemental Agreement, are hereby ratified and confirmed.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2015.

BY ACTION OF THE CITY COUNCIL

_____
Carl Brewer, City Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Sharon Dickgrafe, Interim City Attorney
and Director of Law

BAUGHMAN & COMPANY, P.A.

Philip J. Myer, V.P.
(Name and Title)

ATTEST:

Katie Rice

Baughman

Revised Dec. 24, 2014
December 22, 2014

Gary Janzen, P.E.
City of Wichita
Department of Engineering
455 N. Main, 7th Floor
Wichita, KS 67202

RE: Redbud Bikepath – Supplemental Fee Request For Construction Staking, Shop Drawing Review and Artistic Inspection, Located from I-135 & Hydraulic to 17th & Oliver

Dear Mr. Janzen:

Per the City's request, we are proposing professional services during the construction of the above referenced project. These services will include the construction staking necessary as requested by contractor and coordination / on-site inspection for all art related pieces. We have listed below the services that will be provided.

1. All construction staking necessary for project	$ 28,200
2. Coordination / Inspection Services for all Artistic Elements	$ 18,600

For this work, we are requesting $46,800 in a not-to-exceed contract. We can be ready to start services January 5th, per Cornejo's start date. This proposal assumes all other construction inspection and testing services, not listed above, will be provide by the City.

Thank you for the opportunity to work with the City on the Redbud Bike Path project. If you have any questions, please feel free to contact our office.

Sincerely,
Baughman Company, P.A.

Philip J. Meyer, L.A.
Vice President

cc: file

ENGINEERING
SURVEYING
PLANNING
LANDSCAPE ARCHITECTURE

Baughman Company, P.A.
315 Ellis
Wichita, Kansas 67211
P 316-262-7271 F 316-262-0149

DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk

FROM: Sharon L. Dickgrafe, Interim Director of Law

SUBJECT: Report on Claims for January 2015

DATE: February 2, 2015

The following claims were approved by the Law Department during the month of January 2015.

Allen, Terri	$ 160.73
AT&T	$1,852.80**
Bowens, Marcia	$ 343.00
EZ Loan Sales	$ 6.00
Gamma Phi Beta Sorority	$ 134.98
Lenoch, Kris	$ 130.77
Westar Energy	$2,700.00**

*City Manager Approval
** Settled for lesser amount than claimed
***Settled for more than amount claimed

cc: Robert Layton, City Manager
Shawn Henning, Director of Finance

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
JANUARY 2015

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Airport Media Buying Services	1/31/2016	Copp Media Services, Inc.	Airport Authority	2/5/2013 - 1/31/2014	2 - 1 year options
Airport Specific Marketing Services to Include Website Management, Digital and Social Media	1/31/2016	Sullivan Higdon & Sink	Airport Authority	2/5/2013 - 1/31/2014	2 - 1 year options
Check Collection Services	1/31/2016	Recheck, Inc.	Finance	2/1/2012 - 1/31/2013	1 - 1 year option
Demolition & Site Clearing Services - Secondary Contractor	1/31/2015	H. D. Mills & Sons, Inc.	Public Works & Utilities	8/2/2011 - 7/31/2012	Last option
Demolition & Site Clearing Services - Primary Contractor	1/31/2015	Bradburn Wrecking Company, Inc.	Public Works & Utilities	8/2/2011 - 7/31/2012	Last option
Heating and/or Air Conditioner Repair	1/31/2016	American Commercial & Residential Services, LLC	Various	2/4/2014 - 1/31/2015	1 - 1 year option
Janitorial Services - Water Center, Phase II Education Building	1/31/2016	Best Corporation, Inc. dba ServiceMaster by Best	Public Works & Utilities	2/1/2014 - 1/31/2015	1 - 1 year option
Janitorial Tools	1/31/2016	Massco, Inc.	Various	2/1/2013 - 1/31/2014	Last option
Liquid Phosphate	1/31/2016	Carus Corporation	Public Works & Utilities	2/1/2014 - 1/31/2015	1 -1 year option
Liquid Polyelectrolyte (Bulk Delivery)	1/31/2016	Polydyne, Inc.	Public Works & Utilities	2/5/2013 - 1/31/2014	Last option
Predco Saddles & Saddle Tees	1/31/2016	HD Supply Waterworks, Ltd.	Public Works & Utilities	2/11/2014 - 1/31/2015	1 - 1 year option
Stakes, Paddles and Wedges	1/31/2016	J & S Wood Enterprises, Inc.	Public Works & Utilities	2/1/2014 - 1/31/2015	Last option
Street Light Maintenance & Repair (City Owned)	1/31/2016	Phillips Southern Electric Co., Inc.	Public Works & Utilities	3/1/2014 - 1/31/2015	1 - 1 year option
Waste, Infectious Container Disposal/Pickup	1/31/2016	Kansas Medical Waste Service LLC	Police	2/1/2014 - 1/31/2015	1 - 1 year option

PROFESSIONAL CONTRACTS UNDER $50,000
JANUARY 2015

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Bothner & Bradley, Inc.	FP440076	Cowtown Strategic Planning	not to exceed $23,625.00		
Lockton Companies LLC	BP440113	2015 Property, Liability and Excess Workman's Compensation Insurance Placement	not to exceed $41,000.00		
Corvel Corporation DBA Corvel Healthcare Corporation	BP440108	Medical Bill Review Services	estimate $35,000.00 annually		

ANNUAL MAINTENANCE CONTRACTS OVER $50,000
DIRECT PURCHASE ORDERS FOR JANUARY 2015

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: HOME Program: CHDO Funding Allocation, Mennonite Housing Rehabilitation Services, Inc. (District I)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the funding allocation and authorize the necessary signatures.

Background: On May 6, 2014, the City Council approved final allocations for the 2014-2015 first program year action plan funding process, which included a total of $250,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding is available for non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) or Local Investment Areas (LIA), according to the Council and HUD-approved Consolidated Plan. Requests for funding under the program are received on an open application basis.

Analysis: HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant buyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of construction from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is $95,550.

All homes constructed with HOME funding provided through the HDLP must be sold to owner-occupant, income-eligible home buyers who will receive down payment/closing cost assistance loans through the City's HOMEownership 80 Program.

Mennonite Housing Rehabilitation Services, Inc. (MHRS) has submitted an application for HDLP funds to finance development of four single-family homes on sites located at 1003 N. Indiana, one lot south of 726 S. Pattie, one lot north of 1217 N. Ash, and 2644 N. Estelle. MHRS is a City-designated, non-profit, Community Housing Development Organization (CHDO). Newly constructed homes will feature a basement and a two-car garage.

The HOME program requires an environmental review prior to the start of a HOME-funded project. Environmental review conditions for houses to be constructed in existing neighborhoods typically include design requirements, such as side-load garages at the rear of house structures, covered front porches, and requirements for the installation of radon systems. In addition, homes constructed with HOME funding must comply with the 2012 International Energy Conservation Code, which exceeds building code requirements for the City of Wichita. These requirements add to the cost of construction and when combined with predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing.

Based on recent application activity, the 2014-15 allocation of funding for the Housing Development Loan Program has been depleted. However, there is a total of $230,730 in uncommitted CHDO set-aside funding available from the 2012-2013 program year and the current (2014-2015) program year. Staff proposes to allocate $186,900 of this funding to MHRS, in response to the HDLP application. It should be noted that the uncommitted CHDO set-aside funding can only be allocated to a CHDO.

Financial Considerations: The total project cost is estimated to be $580,000. HOME funding for the proposed project will be $186,900, and will be provided in the form of a zero-interest, forgivable development subsidy loan for each home to be constructed. HOME funding will be used to cover costs related to acquisition, construction, site improvements, and project soft costs such as construction loan fees and interest, and developer fees.

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

Recommendations/Actions: It is recommended that the City Council approve the funding allocation and authorize the necessary signatures.

Attachment: Funding agreement.

FUNDING AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And

Mennonite Housing Rehabilitation Services, Inc.,

A Community Housing Development Organization

HOME Investment Partnerships
Program

Re-Allocated 2012 CHDO Set-Aside Funding
2014 CHDO Set-Aside Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated February 10, 2015, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Mennonite Housing Rehabilitation Services, Inc. (MHRS, a Community Housing Development Organization hereinafter referred to individually as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300 (CHDO Funding); and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract

amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by December 31, 2016, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may

occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. Immediate family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from occupying a HOME-assisted affordable housing unit in a project. This restriction, with respect to occupancy, applies during the period of affordability only, and not to the entire period of ownership by the entity receiving the HOME assistance. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25

U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed $186,900.00 as referenced in Exhibit B. Contract payments above $186,900.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the original application or environmental review; or new circumstances or environmental

conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

(a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.

(b) Developer's financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in

§84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 25. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 26. AFFORDABILITY- HOMEOWNERSHIP. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. Upon completion of construction/issuance of a Certificate of Occupancy, the property is to be re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 27. AFFORDABILITY-RENTAL. Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period (20 years).

SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department,

payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials (24 CFR 92.251), or be certified to be Energy Star compliant. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. FEES. The developer cannot charge servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

SECTION 32. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Exhibit D: Development Budget

Mennonite Housing Rehabilitation Services, Inc.

_____
Signature

_____
Title of MHRS Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Sharon L. Dickgrafe Date
Interim Director of Law and City Attorney

Exhibit A

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

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

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

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

D. Exempted from these requirements are:

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

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

Exhibit B

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Mennonite Housing Rehabilitation Services, Inc., hereinafter referred to as the "City" and "Developer" (or MHRS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

In return for the $186,900.00 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition and redevelopment of sites as follows:

One Lot South of 726 S. Pattie, Wichita, Kansas, PIN 127043

1003 N. Indiana

One Lot North of 1217 N. Ash, Wichita, Kansas, PIN 136074

2644 N Estelle, Wichita, Kansas

A single-family home is to be constructed on each site. The single-family homes must be sold to income-eligible owner-occupant buyers. If any of the single-family homes are not sold as described, within a period of six (6) months following issuance of a Certificate of Occupancy by the City of Wichita, the unsold home(s) must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit “B”.

Housing constructed/developed under this agreement must be sold to a HOME-compliant owner-occupant buyer, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of property and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Sales prices of homes to be constructed/developed under this agreement shall be as follows:

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Unfinished Basement: $85,700

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Basement with One Bath, One Bedroom Finished in Basement: $90,450

Single-Story, 2-Bedroom, One Bath, Two-Car Garage, Two Bedrooms, One Bath Finished In Basement: $92,200

Single-Story, 3-Bedroom, One Bath, Two Car Garage, Full Unfinished Basement: $95,550

(Prices may be increased, subject to approval by the City of Wichita's Housing and Community Services Department, for certain modifications or additional bedroom or bathroom finish requested by buyer.)

The Developer represents and agrees that it will remain the owner of the property until it reaches agreement with a prospective buyer(s) of the property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii)of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

B. Prior to executing any contracts for sale of assisted properties, the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of a 0% interest development subsidy loan to complete the project as approved by the Department of Housing and Community Services.

B. Upon execution of this contract, the Developer shall proceed to complete acquisition of the individual project sites as described herein, upon completion of environmental reviews or within 60 days of execution of this agreement, whichever date comes later. An extension of time for site acquisition may be approved by the City of Wichita Housing and Community Services Department on a case-by-case basis.

C. Developer will identify potential owner-occupant buyers for the homes to be constructed, will assist them in applying for and securing first mortgage financing, will assist them in applying for down payment assistance loans to be provided by the City, and will coordinate final closings. The Developer is prohibited from charging servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

D. Developer shall complete closing of construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 70% or more of the appraised value of the home to be constructed, as approved by the City, within 60 days of the acquisition of the project sites, or within 60 days of signing a purchase agreement with an owner-occupant buyer who has obtained a written commitment for long-term mortgage financing, whichever date comes later.

E. The Developer shall commence construction activities at each individual project site within 45 days of construction loan closing, but no later than 360 days from the date of execution of this funding agreement. Each single family home is to be completed within a period of six months. Final site improvements are to be completed as seasonally appropriate.

III. Administration

The MHRS President/C.E.O. will supervise operations and administration on a day-to-day basis. The MHRS Board of Directors is ultimately responsible for program administration.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available for this project will be $186,900.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $186,900.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with a completed project. The developer fee will be pre-determined at the onset of the construction of the home, and will be paid upon the closing of the sale of the individual home. Proceeds from the sale of the home, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of the development subsidy loan provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of the completed home. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

	$ 186,900.00
TOTAL	$ 186,900.00

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and MHRS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. MHRS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer, as evidenced by a ratified sales contract, within six months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the "Developer" shall become the "Owner", and the following additional requirements of this Section IV shall apply:

A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.

2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR 92.252, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

24 CFR 92.253, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

24 CFR 92.504, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

B. Initial rents for HOME-assisted units are as follows, per 2014 HUD guidelines:

2 Bedroom: $740 - $198 (Utility Allowance) = $542.00

3 Bedroom: $856 - $234 (Utility Allowance) = $622.00

4 Bedroom: $956 - $275 (Utility Allowance) = $681.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other electric appliances and electric lighting. Electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

Should any of the units developed under this agreement be converted to rental housing, the Rent and Utility Allowance schedule shall approved and issued for use by the Developer, by the City of Wichita's Housing and Community Services Staff, at the time of conversion.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City of Wichita's Housing and Community Services Department staff.

D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to City staff for review and approval, prior to lease-up.

E. The Owner shall maintain project/tenant records for a period of no less than five years.

F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.

G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions and covenants will be in force for the period of affordability, which is 20 years, beginning the date of project completion. Definition of project completion is specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).

Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.

J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.

K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.

L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for projects containing five or more HOME-assisted units. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at

the construction site, from the start of construction, and properly maintained throughout the construction and rental period

3. Send notices of housing availability (using form approved by the City) to agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.

5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.

6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.

8. The Owner will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the

number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

C. Additionally, a narrative or other description of progress may be provided.

D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in MHRS (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will obtain any and all permits required by the City prior to undertaking construction.

G. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 70% of the appraised value of the home to be developed/constructed on each project site. Developer to provide a construction loan appraisal for each individual home to be constructed

under this agreement, which is to be reviewed and approved by the City, prior to construction.

H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

J. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

K. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.

L. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

VII. Other Program Requirements

A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for projects containing five or more HOME-assisted units. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.

B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing.

Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.

F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.

G. Developer shall apply for City incentives for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)	
	$.186,900.00
TOTAL	$ 186,900.00

Exhibit D

DEVELOPMENT BUDGET

Per Unit Cost (Prepare for One Unit)

(A) Site Acquisition Cost	6,000.00
(B) Plus: Construction (Hard) Costs Including Demolition	120,000.00
(C) Plus: Project Soft Costs (Loan Fees, Interest, Appraisals, Property Taxes, Surveys, Utilities, Advertising/Affirmative Marketing Expense, etc.)	4,000.00
(D) Plus: Estimated Permit Fees (Include Water/Sewer Tap Fees if Applicable – Enter "0.00" if project is to be undertaken in the City NRA)	0.00
(E) Plus: Required Site Improvements (Fencing; Lawn Seeding)	1,500.00
(F) Subtotal (A+B+C+D+E); Preliminary Per-Unit Development Cost	131,500.00
(G) Plus: Developer Fee (__10__%) of (F)	13,500.00
(H) Total Per-Unit Cost (F + G)	145,000.00
(I) Less: Anticipated Net Sale Proceeds, after expenses and real estate commission	93,775.00
(J) Less: Cash Match Contributions (Other Sources Contributed to the Project, on a per-unit basis, such as AHP development subsidy.)	4,500.00
Project Subsidy Required, per unit (H – I – J)	46,725.00

Number of Units to be Developed ___4__

Total Amount of Funding Requested (Number of Units to be Developed X Project Subsidy Required Per Unit) ___$186,900_____
Sources and Uses of Funds Statement (For Entire Project; Figures to Include All Units)

Sources	**Amount**	**Uses**	**Amount**
Construction Financing	286,648.00	Acquisition Costs	24,000.00
		Project "Soft" Costs	16,000.00
HOME (Gap) Financing	186,900.00	Construction Costs	480,000.00
Repayment of Subsidy Loans	88,452.00	Site Improvements	6,000.00
AHP	18,000.00	Developer Fee	54,000.00
TOTAL	580,000.00	**TOTAL**	580,000.00

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: HOME Program: Housing Development Loan Program Funding, Residential Housing Solutions (District I)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

Background: On May 6, 2014, the City Council approved final allocations for the 2014-2015 first program year action plan funding process, which included a total of $250,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program. The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding is available for non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) or Local Investment Areas (LIA), according to the Council and HUD-approved Consolidated Plan. Requests for funding under the program are received on an open application basis.

Analysis: HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant buyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of construction from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is $95,550.

All homes constructed with HOME funding through the HDLP must be sold to owner-occupant, income-eligible home buyers who will receive down payment/closing costs assistance loans through the City's HOMEownership 80 Program.

Residential Housing Solutions, LLC (RHS), a for-profit organization, has submitted a HDLP application to construct a new home on a vacant lot at 2223 E. Shadybrook, within the Northeast Local Investment Area. RHS has identified a buyer who has entered into an agreement to purchase the home.

The HOME Program requires an environmental review prior to the start of a HOME-funded project. Environmental review conditions for houses to be constructed in existing neighborhoods typically include design requirements, such as side-load garages at the rear of house structures, covered front porches, and requirements for the installation of radon systems. In addition, homes constructed with HOME funding must comply with the 2012 International Energy Conservation Code, which exceeds building code requirements for the City of Wichita. These requirements add to the cost of construction and when combined with predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing.

Financial Considerations: The total project cost is estimated to be $150,353. HOME funding for the proposed project will be $58,418, and will be provided in the form of a zero-interest, forgivable development subsidy loan. HOME funding will be used to cover costs related to acquisition, construction, site improvements, and project soft costs such as construction loan fees and interest, and developer fees.

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

Recommendations/Actions: It is recommended that the City Council approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

Attachment: Funding agreement.

FUNDING AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And

Residential Housing Solutions, LLC,

A For-Profit Housing Developer

HOME Investment Partnerships
Program

2014 Housing Development Loan Program Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated February 10, 2015, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Residential Housing Solutions, LLC, hereinafter referred to individually as the Developer).

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such

sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by March 31, 2016, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. Immediate family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from

occupying a HOME-assisted affordable housing unit in a project. This restriction, with respect to occupancy, applies during the period of affordability only, and not to the entire period of ownership by the entity receiving the HOME assistance. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u

(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are

subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:
The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed $58,418.00 as referenced in Exhibit B. Contract payments above $58,418.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the original application or environmental review; or new circumstances or environmental

conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

(a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.

(b) Developer's financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in

§84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 25. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 26. AFFORDABILITY- HOMEOWNERSHIP. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. Upon completion of construction/issuance of a Certificate of Occupancy, the property is to be re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 27. AFFORDABILITY-RENTAL. Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period (20 years).

SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department,

payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials (24 CFR 92.251), or be certified to be Energy Star compliant. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

SECTION 32. FEES. The developer cannot charge servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Exhibit D: Development Budget

Residential Housing Solutions, LLC

_____
Signature

_____
Title of Residential Housing Solutions, LLC Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Sharon L. Dickgrafe Date
Interim Director of Law and City Attorney

Exhibit A

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

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

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

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

D. Exempted from these requirements are:

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

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

Exhibit B

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Residential Housing Solutions LLC, hereinafter referred to as the "City" and "Developer", that execution of this contract obligates the Developer to the following performance requirements.

In return for the $58,418 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition and redevelopment of sites as follows:

2223 E. Shadybrook, Wichita, Kansas

A single-family home is to be constructed on each site. The single-family home must be sold to an income-eligible owner-occupant buyer. If the single-family home is not sold as described, within a period of nine (9) months following issuance of a Certificate of Occupancy by the City of Wichita, the unsold home must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit “B”.

Housing constructed/developed under this agreement must be sold to a HOME-compliant owner-occupant buyer, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of property and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Sales prices of homes to be constructed/developed under this agreement shall be as follows:

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Unfinished Basement: $85,700

Single-Story, Two Bedroom, One Bath, Two-Car Garage, Full Basement with One Bath, One Bedroom Finished in Basement: $90,450

Single-Story, 2-Bedroom, One Bath, Two-Car Garage, Two Bedrooms, One Bath Finished In Basement: $92,200

Single-Story, 3-Bedroom, One Bath, Two Car Garage, Full Unfinished Basement: $95,550

(Prices may be increased, subject to approval by the City of Wichita's Housing and Community Services Department, for certain modifications or additional bedroom or bathroom finish requested by buyer.)

The Developer represents and agrees that it will remain the owner of the property until it reaches agreement with a prospective buyer(s) of the property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii)of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

B. Prior to executing any contracts for sale of assisted properties, the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes,

purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of a 0% interest development subsidy loan to complete the project as approved by the Department of Housing and Community Services.

B. Upon execution of this contract, the Developer shall proceed to complete acquisition of the individual project sites as described herein, upon completion of environmental reviews or within 60 days of execution of this agreement, whichever date comes later. An extension of time for site acquisition may be approved by the City of Wichita Housing and Community Services Department on a case-by-case basis.

C. Developer will identify potential owner-occupant buyers for the homes to be constructed, will assist them in applying for and securing first mortgage financing, will assist them in applying for down payment assistance loans to be provided by the City, and will coordinate final closings. The Developer is prohibited from charging servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

D. Developer shall complete closing of construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 70% or more of the appraised value of the home to be constructed, as approved by the City, within 60 days of the acquisition of the project sites, or within 60 days of signing a purchase agreement with an owner-occupant buyer who has obtained a written commitment for long-term mortgage financing, whichever date comes later.

E. The Developer shall commence construction activities at each individual project site within 45 days of construction loan closing, but no later than 360 days from the date of execution of this funding agreement. Each single family home is to be completed within a period of six months. Final site improvements are to be completed as seasonally appropriate.

III. Administration

The Residential Housing Solutions, LLC President/C.E.O. will supervise operations and administration on a day-to-day basis. The Residential Housing Solutions, LLC Board of Directors is ultimately responsible for program administration if applicable.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available for this project will be $58,418 in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $58,418.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with a completed project. The developer fee will be pre-determined at the onset of the construction of the home, and will be paid upon the closing of the sale of the individual home. Proceeds from the sale of the home, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of the development subsidy loan provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of the completed home. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)

	$ 58,418.00
TOTAL	$ 58,418.00

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and Residential Housing Solutions, LLC also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. Residential Housing Solutions, LLC will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment

will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer, as evidenced by a ratified sales contract, within nine (9) months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the "Developer" shall become the "Owner", and the following additional requirements of this Section IV shall apply:

A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.

2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR 92.252, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

24 CFR 92.253, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

24 CFR 92.504, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

B. Initial rents for HOME-assisted units are as follows, per 2014 HUD guidelines:

2 Bedroom: $740 - $198 (Utility Allowance) = $542.00

3 Bedroom: $856 - $234 (Utility Allowance) = $622.00

4 Bedroom: $956 - $275 (Utility Allowance) = $681.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other

electric appliances and electric lighting. Electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

Should any of the units developed under this agreement be converted to rental housing, the Rent and Utility Allowance schedule shall approved and issued for use by the Developer, by the City of Wichita's Housing and Community Services Staff, at the time of conversion.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City of Wichita's Housing and Community Services Department staff.

D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to City staff for review and approval, prior to lease-up.

E. The Owner shall maintain project/tenant records for a period of no less than five years.

F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.

G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions and covenants will be in force for the period of affordability, which is 20 years,

beginning the date of project completion. Definition of project completion is specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).

Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.

J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.

K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.

L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for the project. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period

3. Send notices of housing availability (using form approved by the City) to

agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.

5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.

6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.

8. The Owner will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

C. Additionally, a narrative or other description of progress may be provided.

D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in Residential Housing Solutions, LLC. (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will obtain any and all permits required by the City prior to undertaking construction.

G. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 70% of the appraised value of the home to be developed/constructed on each project site. Developer to provide a construction loan appraisal for each individual home to be constructed under this agreement, which is to be reviewed and approved by the City, prior to construction.

H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

J. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

K. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.

L. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

VII. Other Program Requirements

A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The

Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.

B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.

F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.

G. Developer shall apply for City incentives for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)	
	$ 58,418.00
TOTAL	$ 58,418.00

Exhibit D

DEVELOPMENT BUDGET

Per Unit Cost (Prepare for One Unit)

(A) Site Acquisition Cost	4,000.00
(B) Plus: Construction (Hard) Costs Including Demolition	127,685.00
(C) Plus: Project Soft Costs (Loan Fees, Interest, Appraisals, Property Taxes, Surveys, Utilities, Advertising/Affirmative Marketing Expense, etc.)	2,500.00
(D) Plus: Estimated Permit Fees (Include Water/Sewer Tap Fees if Applicable – Enter "0.00" if project is to be undertaken in the City NRA)	0.00
(E) Plus: Required Site Improvements (Fencing; Lawn Seeding)	2,500.00
(F) Subtotal (A+B+C+D+E); Preliminary Per-Unit Development Cost	136,685.00
(G) Plus: Developer Fee (__10__%) of (F)	13,668.00
(H) Total Per-Unit Cost (F + G)	150,353.00
(I) Less: Anticipated Net Sale Proceeds, after expenses and real estate commission	91,935.00
(J) Less: Cash Match Contributions (Other Sources Contributed to the Project, on a per-unit basis, such as AHP development subsidy.)	0.00
(K) Project Subsidy (Gap Financing) Required, per unit (H – I – J)	58,418.00

Sources	**Amount**	**Uses**	**Amount**
Construction Financing	71,662.00	Acquisition Costs	4,000.00
		Project "Soft" Costs	2,500.00
HOME (Gap) Financing	58,418.00	Construction Costs	127,685.00
Repayment of Subsidy Loans	20,273.00	Site Improvements	2,500.00
		Developer Fee	13,668.00
TOTAL	150,353.00	**TOTAL**	150,353.00

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: HOME Program: Housing Development Loan Program Funding, Wichita Habitat for Humanity (District I)

INITIATED BY: Housing and Community Services Department

AGENDA: Consent

Recommendation: Approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

Background: On May 6, 2014, the City Council approved final allocations for the 2014-2015 first program year action plan funding process, which included a total of $250,000 in HOME Investment Partnerships Program (HOME) funding for the Housing Development Loan Program (HDLP). The HDLP is designed to provide subsidies for infill housing projects, to support the development of real estate that is idle or underutilized, and to provide needed housing for underserved populations. Funding is available for non-profit or for-profit organizations. The loan structure is dependent upon the type of project to be financed. The program funding must be utilized within the boundaries of the City's Redevelopment Incentives Area (RIA), Neighborhood Revitalization Area (NRA) or Local Investment Areas (LIA), according to the Council and HUD-approved Consolidated Plan. Requests for funding under the program are received on an open application basis.

Analysis: HOME funds have been essential for the development of housing that is affordable for income-eligible owner-occupant buyers in the City's targeted areas because the lower predominant values in existing neighborhoods make it difficult to fully recover the costs of construction from the sales price. HOME funds are made available for construction of single-family homes in the form of a development subsidy to offset acquisition, construction and site improvement expenses, as well as selling expenses and developer fees. The current maximum selling price for HOME-funded homes is $95,550.

All homes constructed with HOME funding through the HDLP must be sold to owner-occupant, income-eligible home buyers who will receive down payment/closing costs assistance loans through the City's HOMEownership 80 Program.

Wichita Habitat for Humanity, Inc. (Habitat), a non-profit organization, has completed construction of six single-family homes within the 1200 block of North Poplar under a prior-year HDLP funding agreement, and has submitted a HDLP funding application to construct six additional homes. Two of the homes will be constructed within the 1200 block of North Poplar, and four of the homes will be constructed within the 1200 block of North Green. Habitat's construction program is a national model which utilizes volunteers and in some cases, donated materials.

The HOME Program requires an environmental review prior to the start of a HOME-funded project. Environmental review conditions for houses to be constructed in existing neighborhoods typically include design requirements, such as side-load garages at the rear of house structures, covered front porches, and requirements for the installation of radon systems. In addition, homes constructed with HOME funding must comply with the 2012 International Energy Conservation Code, which exceeds building code requirements for the City of Wichita. These requirements add to the cost of construction and when

combined with predominant values in the neighborhood, increase the subsidy that is required in order to develop new single-family housing.

Financial Considerations: The total project cost is estimated to be $651,702, the majority of which will be self-financed by Habitat, as well as gifts in kind. HOME funding for the proposed project will be $140,502, and will be provided in the form of zero-interest, forgivable development subsidy loans for each individual home to be constructed. HOME funding will be used to cover some of the subcontracting expenses involved in home construction, such as excavation, foundation construction, mechanical items, site improvements, as well as developer fees. Habitat's program includes a mortgage carry-back for program participants for a period of up to 20 years with no interest.

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

Recommendations/Actions: It is recommended that the City Council approve the Housing Development Loan Program funding allocation and authorize the necessary signatures.

Attachments: Funding agreement.

FUNDING AGREEMENT
Between

THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And

Wichita Habitat for Humanity, Inc.,

A Non-Profit Housing Developer

HOME Investment Partnerships
Program

2014 Housing Development Loan Program Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No._____

AGREEMENT

THIS CONTRACT, dated February 10, 2015, and effective the date signed by the Mayor of the City of Wichita, by and between the City of Wichita, Kansas (hereinafter referred to as "the City") and Wichita Habitat for Humanity, Inc., a non-profit Developer, hereinafter referred to individually as the Developer).

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than $10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such

sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by June 30, 2016, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of each unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Should it be necessary to convert a housing unit developed under this agreement to a rental unit as described in section IV of Exhibit B of this agreement, the contract will otherwise remain in force through the period of affordability which will end on a date 20 years following the date of completion of the unit, as defined in 24 CFR 92.2. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. Immediate family members of an officer, employee, agent, elected or appointed official or consultant of an owner, developer, or sponsor are prohibited from

occupying a HOME-assisted affordable housing unit in a project. This restriction, with respect to occupancy, applies during the period of affordability only, and not to the entire period of ownership by the entity receiving the HOME assistance. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u

(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are

subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of $2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:
The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is $2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act. Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed $140,502.00 as referenced in Exhibit B. Contract payments above $140,502.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 30, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement. The Developer further agrees to transfer ownership of any properties that are the subject of incomplete projects that have been funded under this agreement to the City, or as directed by the City, in order to facilitate project completion, as required under the HOME regulation.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than $10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of $100,000, the Developer agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. FEDERAL ENVIRONMENTAL REVIEW AND APPROVAL PROVISIONS.

A. In accordance with 24 C.F.R. Part 58.22, the developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

B. This agreement does not constitute an unconditional commitment of funds or site approval. The commitment of funds to the project may occur only upon satisfactory completion of the project's environmental review in accordance with 24 CFR Part 58 and related environmental authorities. Provision of funding is further conditioned on the City's determination to proceed with, modify, or cancel the project based on the results of the environmental review.

C. The Developer agrees to abide by the special conditions, mitigation measures or requirements identified in the City's environmental approval and shall ensure that project contracts and other relevant documents will include such special conditions, mitigation measures or requirements.

D. Until the City has approved the environmental review for the project, neither the Developer nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance to the project or activity.

E. The Developer agrees to provide the City with all available environmental information about the project and any information which the City may request in connection with the conduct and preparation of the environmental review, including any reports of investigation or study which in the City's opinion is needed to fulfill its obligations under HUD environmental requirements.

F. The Developer agrees to advise the City of any proposed change in the scope of the project or any change in environmental conditions, including substantial changes in the nature, magnitude, extent or location of the project; the addition of new activities not anticipated in the original scope of the project; the selection of an alternative not in the original application or environmental review; or new circumstances or environmental

conditions which may affect the project or have bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity.

SECTION 17. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 18. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 19. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

(a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.

(b) Developer's financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in

§84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 20. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 21. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

SECTION 22. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 23. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 24. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 25. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 26. AFFORDABILITY- HOMEOWNERSHIP. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. Upon completion of construction/issuance of a Certificate of Occupancy, the property is to be re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 27. AFFORDABILITY-RENTAL. Rental housing assisted with HOME funds must meet the affordability requirements specified at 92.252 of the HOME Regulation (24 C.F.R. Part 92), as applicable. HOME funds must be re-paid to the City by the Owner if the housing does not meet the affordability requirements for the specified time period (20 years).

SECTION 28. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department,

payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 29. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials (24 CFR 92.251), or be certified to be Energy Star compliant. (Developer to provide certification.)

SECTION 30. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 31. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

SECTION 32. FEES. The developer cannot charge servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

Exhibit A: Revised Non-Discrimination & Equal Employment Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Exhibit D: Development Budget

Wichita Habitat for Humanity, Inc.

_____
Signature

_____
Title of Wichita Habitat for Humanity, Inc. Officer

_____
Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

_____
Carl Brewer, Mayor

_____
Date

ATTEST:

_____
Karen Sublett, City Clerk

_____
Date

Approved as to Form:

_____ _____
Sharon L. Dickgrafe Date
Interim Director of Law and City Attorney

Exhibit A

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

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

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

B. Requirements of the State of Kansas:

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

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

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

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

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

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

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

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

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

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

D. Exempted from these requirements are:

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

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

Exhibit B

PERFORMANCE CRITERIA
AND
CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Wichita Habitat for Humanity, Inc., hereinafter referred to as the "City" and "Developer", that execution of this contract obligates the Developer to the following performance requirements.

In return for the $140,502 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition and redevelopment of sites as follows:

1227 N. Poplar, Wichita, Kansas

1255 N. Poplar, Wichita, Kansas

1237 N. Green, Wichita, Kansas

1201 N. Green, Wichita, Kansas

1207 N. Green, Wichita, Kansas

1241 N. Green, Wichita, Kansas

A single-family home is to be constructed on each site. Each single-family home must be sold to an income-eligible owner-occupant buyer. If a single-family home is not sold as described, within a period of nine (9) months following issuance of a Certificate of Occupancy by the City of Wichita, the unsold home must be converted to a single unit HOME-assisted rental project as described in Section IV of this Exhibit “B”.

Housing constructed/developed under this agreement must be sold to a HOME-compliant owner-occupant buyer, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of property and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Sales prices of homes to be constructed/developed under this agreement shall be as follows:

4-Bedroom, 2-Bathroom Units with Single-Car Garage: $82,000

3-Bedroom, 1-Bathroom Units, with Single-Car Garage: $76,000

2-Bedroom, 1-Bathroom Units, with Single-Car Garage: $70,000

(Prices may be increased, subject to approval by the City of Wichita's Housing and Community Services Department, for certain modifications or additional bedroom or bathroom finish requested by buyer.)

The Developer represents and agrees that it will remain the owner of the property until it reaches agreement with a prospective buyer(s) of the property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii)of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

B. Prior to executing any contracts for sale of assisted properties, the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of a 0% interest development subsidy loan to complete the project as approved by the Department of Housing and Community Services.

B. Upon execution of this contract, the Developer shall proceed to complete acquisition of the individual project sites as described herein, upon completion of environmental reviews or within 60 days of execution of this agreement, whichever date comes later. An extension of time for site acquisition may be approved by the City of Wichita Housing and Community Services Department on a case-by-case basis.

C. Developer will identify potential owner-occupant buyers for the homes to be constructed, will assist them in applying for and securing first mortgage financing, will assist them in applying for down payment assistance loans to be provided by the City, and will coordinate final closings. The Developer is prohibited from charging servicing, loan origination, processing, inspection, or other fees that represent the cost of providing HOME assistance.

D. Developer shall complete closing of construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 70% or more of the appraised value of the home to be constructed, as approved by the City, within 60 days of the acquisition of the project sites, or within 60 days of signing a purchase agreement with an owner-occupant buyer who has obtained a written commitment for long-term mortgage financing, whichever date comes later.

E. The Developer shall commence construction activities at each individual project site within 45 days of construction loan closing, but no later than 360 days from the date of execution of this funding agreement. Each single family home is to be completed within a period of six months. Final site improvements are to be completed as seasonally appropriate.

III. Administration

The Developer will supervise operations and administration on a day-to-day basis. The Developer's Board of Directors is ultimately responsible for program administration, if applicable.

A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available for this project will be $140,502.00 in the form of forgivable development subsidy loans, to be used as set forth in the sections entitled Budget and Method of Payment.

B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of $140,502.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with a completed project. The developer fee will be pre-determined at the onset of the construction of the home, and will be paid upon the closing of the sale of the individual home. Proceeds from the sale of the home, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of the development subsidy loan provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of the completed home. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves, 5% Contingency.)

	$ 140,502.00
TOTAL	$ 140,502.00

C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.

1. The City and the Developer also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than $10,000, other than those within the scope of this agreement must be approved by the City Council.

2. The Developer will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

IV. Conversion of Homeownership Activities (Sites) to Rental Projects

In the event that a single-family home and real estate developed under this agreement has not been sold to an eligible homebuyer, as evidenced by a ratified sales contract, within nine (9) months of completion, the unit must be converted to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such unit (20 years), as described in this Section IV. For purposes of this Section IV, the "Developer" shall become the "Owner", and the following additional requirements of this Section IV shall apply:

A. Project Requirements

1. Project must conform to regulations under 24 CFR Part 92, commonly known as the HOME Regulations.

2. 24 CFR Part 92, Subpart F specifically describes maximum HOME contribution per unit, Property Standards, Tenant and participation rents and protections, and period of affordability based on the level of HOME fund contributions.

Specific references to HOME Project Requirements can be found as follows:

24 CFR 92.252, Qualification as affordable housing: Rental Housing. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the requirements of this part, in order to qualify as affordable housing.

24 CFR 92.253, Tenant and participant protections apply, and are related to lease terms, termination of tenancy, and tenant selection.

24 CFR 92.504, Required Annual On-Site Inspections of HOME-assisted Rental Housing.

B. Initial rents for HOME-assisted units are as follows, per 2014 HUD guidelines:

2 Bedroom: $740 - $198 (Utility Allowance) = $542.00

3 Bedroom: $856 - $234 (Utility Allowance) = $622.00

4 Bedroom: $956 - $275 (Utility Allowance) = $681.00

These rents assume that homes constructed under this program will feature gas heat and gas water heating, an electric range, electric air conditioning, with other electric appliances and electric lighting. Electric ranges are to be provided. The tenant will pay for all utilities, including water service, sewer service, and trash service. If utilities are to be provided in an alternative manner, the Owner will notify the City so that HOME rents can be re-calculated. HOME rents are subject to revision by HUD on an annual basis. HOME assisted units will be subject to rent limitations and other requirements specified in Section 92.252, during the period of affordability.

Should any of the units developed under this agreement be converted to rental housing, the Rent and Utility Allowance schedule shall approved and issued for use by the Developer, by the City of Wichita's Housing and Community Services Staff, at the time of conversion.

The Owner is also required to lease the HOME-assisted unit to households earning 60% or less of median annual income for the area, as determined by HUD. This requirement, in addition to the other requirements in Section 92.252, will be in effect during the period of affordability.

Units with four bedrooms may be allowed on a case-by-case basis, subject to City approval. The City will provide HOME rent amounts and utility allowances as required.

C. Procedures for Rent Increases: The Owner will submit requests for rental increases 60 days prior to the effective date of the proposed rent increase for approval by the City of Wichita's Housing and Community Services Department staff.

D. Leases, Tenant Selection Policies, and standards for its waiting lists will comply with 24 CFR Part 92.253, and the Owner will submit these documents to City staff for review and approval, prior to lease-up.

E. The Owner shall maintain project/tenant records for a period of no less than five years.

F. Owner agrees to inspection of all HOME-assisted units following completion to ensure compliance with the requirements of 24 CFR Part 92.251 (a) (1) and (3). The Owner must maintain the housing in compliance with 24 CFR Part 92.251 for the duration of the affordability period, and agrees to inspection of the HOME-assisted units on an annual basis, in order to verify continued compliance with 24 CFR Part 92.251 and 24 CFR Part 92.252.

G. Owner agrees to execute a document placing deed restrictions and covenants against the property in order to comply with 24 CFR Part 92.252. Said restrictions and covenants will be in force for the period of affordability, which is 20 years, beginning the date of project completion. Definition of project completion is specified in 24 CFR, Part 92.2. Said document will be filed of record by the City.

H. Owner agrees to comply with the Fair Housing and Equal Opportunity Act. (92.202 and 92.250), Title VI of Civil Rights Act of 1964, (42 USC 2000d et.seq.), Fair Housing Act (42 USC3601-3620) Executive Order 11063 (amended by Executive order 12259), Age Discrimination Act of 1975, as amended (42 USC 6101), 24 CFR 5.105 (a).

Owner must comply with federal requirements set forth in 24 CFR part 5, subpart A. The requirements of this subpart include: nondiscrimination and equal opportunity; disclosure requirements; debarred, suspended or ineligible contractors; and drug-free workplace. Nondiscrimination requirements at section 282 of the Act are applicable.

J. Owner must comply with the affordability requirements in 24 CFR Part 92.252 as applicable. If Owner fails to comply with the affordability requirements in 24 CFR Part 92.252 repayment of HOME funds is required.

K. The Owner/Project Management must verify the income of tenants of HOME-assisted units prior to occupancy, per the requirements of 24 CFR Part 92.203 (a) (1) (I). Copies of source documentation are required to be maintained in tenant files. Project Management must re-examine the income of tenants of HOME-assisted units on an annual basis. Project Management will utilize the definition of annual income described in 24 CFR Part 92.203 (b) (1), also known as the Section 8 Method.

L. The Owner/Project Management agree to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for the project. The Affirmative Marketing Plan must be available for public inspection in the leasing office. The plan must contain specific steps and actions that the developer will take to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area of the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at

the construction site, from the start of construction, and properly maintained throughout the construction and rental period

3. Send notices of housing availability (using form approved by the City) to agencies from a list provided by the City.

4. Provide copies of all materials sent to community contacts announcing the housing availability to the City of Wichita Housing Services Department.

5. No later than 90 days prior to engaging in marketing activities, the Agency should notify the City of Wichita Housing Services Department, either in writing or by telephone of the earlier of the dates on which: (1) the Agency plans to begin initial marketing activities; (2) accepts leasing applications; and (3) begins leasing units.

6. The Owner must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

7. The Owner will retain copies of all documentation related to marketing efforts, and make available for City inspection.

8. The Owner will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report, in a format to be provided by the City. Said report shall be due to the City of Wichita July 10 of each applicable year.

V. Records and Reports

A. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.

B. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2015, an annual report of the HOME funded portion of the program**. It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developer's fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the

number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

C. Additionally, a narrative or other description of progress may be provided.

D. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

VI. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.

B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.

C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.

D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.

E. Provide evidence that ownership interest in the property vests in Wichita Habitat for Humanity, Inc. (Copy of Deed, and/or Title Insurance Binder/Policy)

F. The Developer will obtain any and all permits required by the City prior to undertaking construction.

G. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 70% of the appraised value of the home to be developed/constructed on each project site. Developer to provide a construction loan appraisal for each individual home to be constructed

under this agreement, which is to be reviewed and approved by the City, prior to construction.

H. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.

I. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

J. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

K. The Developer shall submit any subdivision plats, street designs, variance requests, lot split requests, or any other documentation regarding zoning adjustments required to carry out construction of a home or a group of homes to the Housing and Community Services department for review and approval, prior to submission to the Wichita/Sedgwick County Metropolitan Area Planning Department, or the Wichita/Sedgwick County Metropolitan Area Planning Commission.

L. In addition to the above, the Developer agrees to provide any additional documentation deemed necessary by the City to comply with program regulations, including, but not limited to, real estate contracts and mortgage loan commitment documentation.

VII. Other Program Requirements

A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:

1. Display of the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display of the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.

3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.

B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

C. Site Improvements: The City may require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, seeding or sodding of front yards, and 4' chain-link fencing.

Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.

D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.

E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.

F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.

G. Developer shall apply for City incentives for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VIII. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in progress reports.

IX. Project Close-Out

The Developer shall provide all records and reports as deemed necessary by the City, in order to satisfy federal requirements related to final reporting and project close-out, in accordance with established HUD procedures.

Exhibit C

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee, Construction Loan Refinance/Principal Reduction, Operating Reserves.)	$ 140,502.00
TOTAL	$ 140,502.00

Exhibit D

DEVELOPMENT BUDGET

Per Unit Cost (Prepare for One Unit)

(A) Site Acquisition Cost	4,000.00
(B) Plus: Construction (Hard) Costs Including Demolition	90,433.00
(C) Plus: Project Soft Costs (Loan Fees, Interest, Appraisals, Property Taxes, Surveys, Utilities, Advertising/Affirmative Marketing Expense, etc.)	1,810.00
(D) Plus: Estimated Permit Fees (Include Water/Sewer Tap Fees if Applicable – Enter "0.00" if project is to be undertaken in the City NRA)	0.00
(E) Plus: Required Site Improvements (Fencing; Lawn Seeding)	2,500.00
(F) Subtotal (A+B+C+D+E); Preliminary Per-Unit Development Cost	98,743.00
(G) Plus: Developer Fee (__10__%) of (F)	9,874.00
(H) Total Per-Unit Cost (F + G)	108,617.00
(I) Less: Anticipated Net Sale Proceeds, after expenses and real estate commission	78,000.00
(J) Less: Cash Match Contributions (Other Sources Contributed to the Project, on a per-unit basis, such as AHP development subsidy.)	7,200.00
(K) Project Subsidy (Gap Financing) Required, per unit (H – I – J)	23,417.00

Sources and Uses of Funds Statement for **__6___** Housing Units

Sources	**Amount**	**Uses**	**Amount**
Construction Financing	453,000.00	Acquisition Costs	24,000.00
		Project "Soft" Costs	10,860.00
HOME (Gap) Financing	140,502.00	Construction Costs	542,598.00
Repayment of Subsidy Loans		Site Improvements	2,600.00
Gifts in Kind	43,200.00	Developer Fee	59,244.00
TOTAL	636,702.00	**TOTAL**	636,702.00

CITY OF WICHITA
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Sale of City-owned Property at Meridian and West Kellogg (District III)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Declare the property surplus and approve the sale.

Background: A triangular shaped tract of land bound by the Union Pacific Railroad Corridor, West Kellogg and improved properties in the 600 and 700 Blocks of South Meridian has been identified as potential surplus. The parcel was acquired in 1990 when it became landlocked due to the expansion and improvement of West Kellogg at Meridian. A portion of the site was utilized for the highway project. The 16,627 square foot remnant has been maintained as green space.

Analysis: An offer of $12,000 ($.72 per square foot) has been received for the property. All City departments have been notified of the availability of the property with governmental use identified. Because the parcel is landlocked, there is no market for the property except from an adjacent owner.

Financial Considerations: The City will receive cash consideration for the property. Additionally, the surplus and sale of this property to a private party will place additional value into the tax base and relieve the City of the cost to maintain the property.

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

Recommendation/Action: It is recommended that the City Council declare the property as surplus and approve the proposed real estate agreement.

Attachments: Real estate agreement and aerial map.

Meridian and Kellogg Parcel

Legend

- Parcels

This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. 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.

1: 2,485

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Amendment of Contract Legal Services

INITIATED BY: Department of Law/Human Resources

AGENDA: Consent

Recommendation: Approve the contract amendment.

Background: In March of 2012, the City entered into a contract with Triplett, Woolf & Garretson, LLC, for representation of the City in an employment matter. The original contract was for an amount not to exceed $24,990. A supplemental contract was entered into between the parties in July of 2012, for an amount not to exceed $75,000. Funds for these contracts have been expended.

Analysis: The City relies upon qualified legal counsel to provide professional consultation and legal services in matters where the City Attorney's office has a legal conflict in providing representation for the City. The allotted funds to the initial contracts have been expended and it is necessary to extend the contract.

Financial Considerations: The contract amendment is for an amount not to exceed $75,000. Payment for the contract will be made from the tort claims fund.

Legal Considerations: The Law Department drafted the proposed Amendment to the Agreement for Professional Services and has approved it as to form.

Recommendations/Actions: It is recommended that the City Council approve the contract amendment and authorize the necessary signatures.

Attachments: None.

SECOND AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

By and Between

THE CITY OF WICHITA, KANSAS

and

TRIPLETT, WOOLF & GARRETSON, LLC
Law Firm

THIS AGREEMENT made and entered into on this ____ day of January, 2015, is an amendment to the Agreement originally executed in March 2012, hereinafter (the "March 2012 Agreement"), and the subsequent amendment executed in July 2012, hereinafter (the "July 2012 Agreement"), by and between the City of Wichita, Kansas (hereinafter the "City") and Triplett, Woolf and Garretson, LLC (hereinafter the "Attorneys").

WITNESSETH:

WHEREAS, pursuant to the March 2012 Agreement, the Attorneys were retained by the City to provide legal services in connection with an employment matter;

WHEREAS, the initial amount authorized as compensation for the Attorneys in the March 2012 Agreement was for a sum not to exceed $24,990.00;

WHEREAS, it has become necessary to amend the March 2012 Agreement to permit additional expenditures of up to $75,000.00.

NOW THEREFORE, IT IS MUTUALLY AGREED by and between the parties hereto as follows:

1. The list of attorneys contained in paragraph 2 of the March 2012 Agreement is hereby modified and amended as follows:

   Jerald W. Rogers and Amy Fellows Cline are hereby removed.

Attorney Derek S. Casey is hereby added to the list at a rate not to exceed $235.00 per hour.

Legal Assistant Leann LaMar is hereby added to the list at a rate not to exceed $110.00 per hour.

2. The last sentence of paragraph 2 of the March 2012 Agreement is hereby modified and amended to read as follows:

   The total compensation pursuant to this contract shall not exceed the sum of One Hundred Seventy-four Thousand Nine Hundred Ninety Dollar ($174,990.00) unless specifically authorized by the City Council of the City of Wichita, Kansas.

3. In all other respects, the terms and provisions of the March 2012 Agreement between the parties hereto shall remain in force and effect as the same were originally approved by the parties in the March 2012 Agreement.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

THE CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Sharon L. Dickgrafe
Interim City Attorney

TRIPLETT, WOOLF & GARRETSON, LLC

By _____
Eric B. Metz for the Law Firm

Agenda Item No. II-15

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Resolution Setting a Public Hearing for Consideration of a Project Plan (Tax Increment Financing) for the Union Station Project (District I)

INITIATED BY: Office of Urban Development

AGENDA: Consent

Recommendations: Adopt the resolution setting a public hearing on March 17, 2015 for consideration of a tax increment financing (TIF) project plan for the Union Station Project.

Background: On October 14, 2014, the City Council adopted an ordinance establishing the boundaries of the Union Station Redevelopment District. The district is southwest of Douglas and Washington; generally bounded on the north by Douglas Avenue, between the railroad tracks and Rock Island. In order to use TIF, the City Council must adopt a TIF project plan, which provides detailed information on the proposed project and how TIF will be used, and demonstrates how the projected increase in property tax revenue will pay for TIF eligible costs.

On February 3, 2015, the City Council adopted an ordinance amending the Union Station Redevelopment District amended to include a map of Project Areas to facilitate redevelopment of the property in two phases. The resolution presented to the City Council for consideration would initiate the process for the first phase of redevelopment.

Analysis: The developer, Union Station LLC, plans to create a mixed use development of almost 275,000 square feet of retail, restaurants, and office space through historic renovation of the existing buildings on the campus, as well as new construction infill. The estimated overall project cost is $54,000,000. The developer proposes that tax increment financing will be used to pay for eligible redevelopment project costs on a “pay-as-you-go” basis, for City land acquisition of a public easement, site preparation, infrastructure improvements and parking.

In accordance with state law, a TIF Project Plan has been prepared in consultation with the Wichita-Sedgwick County Metropolitan Area Planning Commission, which has made a finding that the project is consistent with the Comprehensive Plan for development of the area. In order to adopt a TIF Project Plan, the City Council must first set a public hearing no less than 30 and no more than 70 days from adoption of the resolution setting the hearing. The date of March 17, 2015, at the regular City Council meeting is proposed for the public hearing on the Union Station Project Area 1 Plan.

If adopted by the City Council, the attached resolution setting the March 17, 2015 public hearing will be sent to the owners and occupants of all property located within the proposed Union Station Project Area, by certified mail. The resolution includes a map that shows the boundaries of the redevelopment district and project area. The resolution will also be published in the Wichita Eagle and copies will be provided to the Board of County Commissioners and Board of Education and their appropriate staff.

After closing the public hearing on March 17, 2015 the City Council may adopt the TIF Project Plan by ordinance, by two-thirds majority vote. Once adopted, the City will be authorized to use tax increment financing to finance eligible project costs.

Financial Considerations: Since the TIF project will be financed on a pay-as-you-go basis, the City will not issue any debt related to the project. The cost of mailings and publications will be charged to the Economic Development Fund and reimbursed with TIF revenues as they become available. The Developer has provided a funding agreement, along with a $10,000 deposit, to cover the City's costs in establishing the district and negotiating a development agreement.

Legal Considerations: The adoption of a TIF project plan requires a public hearing to be held by the City Council, following the giving of proper notice, prior to adopting an ordinance that approves the project plan. The action needed to set the public hearing is adoption of the attached resolution. The resolution has been prepared by Bond Counsel and reviewed by the Department of Law and approved as to form.

Recommendation/Action: It is recommended that the City Council adopt the resolution setting a public hearing on March 17, 2015, for consideration of the Union Station Project Area 1 Plan and authorize the necessary signatures.

Attachment(s): Resolution Considering the Adoption of the Union Station Project Area 1 Plan
Union Station Redevelopment District Project Area 1 Plan

Gilmore & Bell, P.C.
01/29/2015

(Published in ***The Wichita Eagle*** on March 6, 2015)

RESOLUTION NO. 15-045

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS STATING THAT THE CITY IS CONSIDERING A REDEVELOPMENT PROJECT PLAN FOR PROJECT AREA 1 WITHIN THE BOUNDARIES OF THE UNION STATION REDEVELOPMENT DISTRICT PURSUANT TO K.S.A. 12-1770 *ET SEQ*.

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

WHEREAS, by Ordinance No. 49-839, passed October 14, 2014, and published October 17, 2014, the City established a redevelopment district pursuant to K.S.A. 12-1770 *et seq*., as amended (the "Act"), known as the Union Station Redevelopment District (the "District"), and

WHEREAS, the District Plan for the District provided that redevelopment of the District may be in several project areas within the District as set forth in separate redevelopment plans to be approved by the governing body of the City pursuant to the Act; and

WHEREAS, pursuant to Ordinance No. 49-938, passed February 10, 2015, and published February 13, 2015, a non-substantial amendment to Ordinance No. 49-839 and the District Plan was made by attaching a map of the proposed project areas; and

WHEREAS, the City has prepared a redevelopment project plan (the "Project Plan") for the Union Station Project Area 1 ("Project Area 1") within the District and is negotiating a redevelopment agreement with respect thereto and is considering adoption of the Project Plan; and

WHEREAS, on February 5, 2015, the Wichita Sedgwick County Metropolitan Area Planning Commission reviewed the proposed Project Plan and has adopted a resolution finding that the Project Plan is consistent with the comprehensive plan for the development of the City; and

WHEREAS, the City negotiated a Development Agreement, between Union Station LLC (the "Developer") and the City (the "Development Agreement") relating to the development, site preparation, utility relocation and extension and construction of public infrastructure improvements, landscaping and public plazas to be undertaken in conjunction with the development by the Developer of a mixed use development of renovation of existing buildings and construction of commercial use space within the District; and

WHEREAS, the City desires to call and conduct a public hearing under the provisions of the Act to consider approval of the Project Plan and the Development Agreement.

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

Section 1. **Project Plan**. The City is considering the approval of the Project Plan, which includes the information required by the Act. The boundaries of the of the District and the Project Area 1are set forth

on ***Exhibit A*** attached hereto and are legally described as set forth in ***Exhibit B*** attached hereto, the provisions of which are incorporated herein by reference.

Section 2. Plan Delivery, Development Agreement; Public Records. The City Clerk is directed to deliver a copy of the Project Plan to the Board of County Commissioners of Sedgwick County, Kansas and to the Board of Education of Unified School District No. 259. A copy of the Project Plan, a map of Project Area 1 to be redeveloped and the Development Agreement are public records and will be on file and available for public inspection during regular office hours in the office of the City Clerk, City Hall, 13th Floor, 455 N. Main, Wichita, Kansas.

Section 3. **Public Hearing; Approval**. Notice is hereby given that the City Council of the City will conduct a public hearing to consider the approval of the Project Plan and the Development Agreement on March 17, 2015, at 9:00 a.m., or as soon thereafter as the matter can be heard, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas. At the public hearing, the City Council will receive public comment on the Project Plan and Development Agreement, and may, after the conclusion of such public hearing, consider the passage of an ordinances that makes findings necessary pursuant to the Act for approval of the Project Plan and an ordinance approving the Development Agreement.

Section 4. **Notice of Public Hearing**. The City Clerk is hereby authorized and directed to provide for notice of the public hearing by taking the following actions:

(a) a copy of this Resolution shall be mailed by United States certified mail, return receipt requested, within 10 days of this date to: (i) the Board of County Commissioners of Sedgwick County, Kansas; (ii) the Board of Education of U.S.D. No. 259; and (iii) each owner and occupant of land within Project Area 1.

(b) a copy of this resolution, specifically including ***Exhibits A*** and ***B*** attached hereto, shall be published once in the official newspaper of the City not less than one week nor more than two weeks preceding the date of the public hearing.

Section 5. **Further Authority**. The Mayor, City Manager, City Clerk and the other officers and representatives of the City, including the City's bond counsel, are hereby authorized and directed to take such other action as may be necessary, appropriate or desirable to accomplish the purposes of this resolution.

Section 6. **Effective Date** This Resolution shall be in full force and effect from and after its adoption by the City Council.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the City Council of the City of Wichita, Kansas, on February 10, 2015.

(SEAL)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Sharon L. Dickgrafe, Interim Director of
Law and City Attorney

JLN\600809.70376\RESOLUTION CALLING PLAN 1 HEARING

(Signature Page to Resolution)

Exhibit A

Map of Project Areas

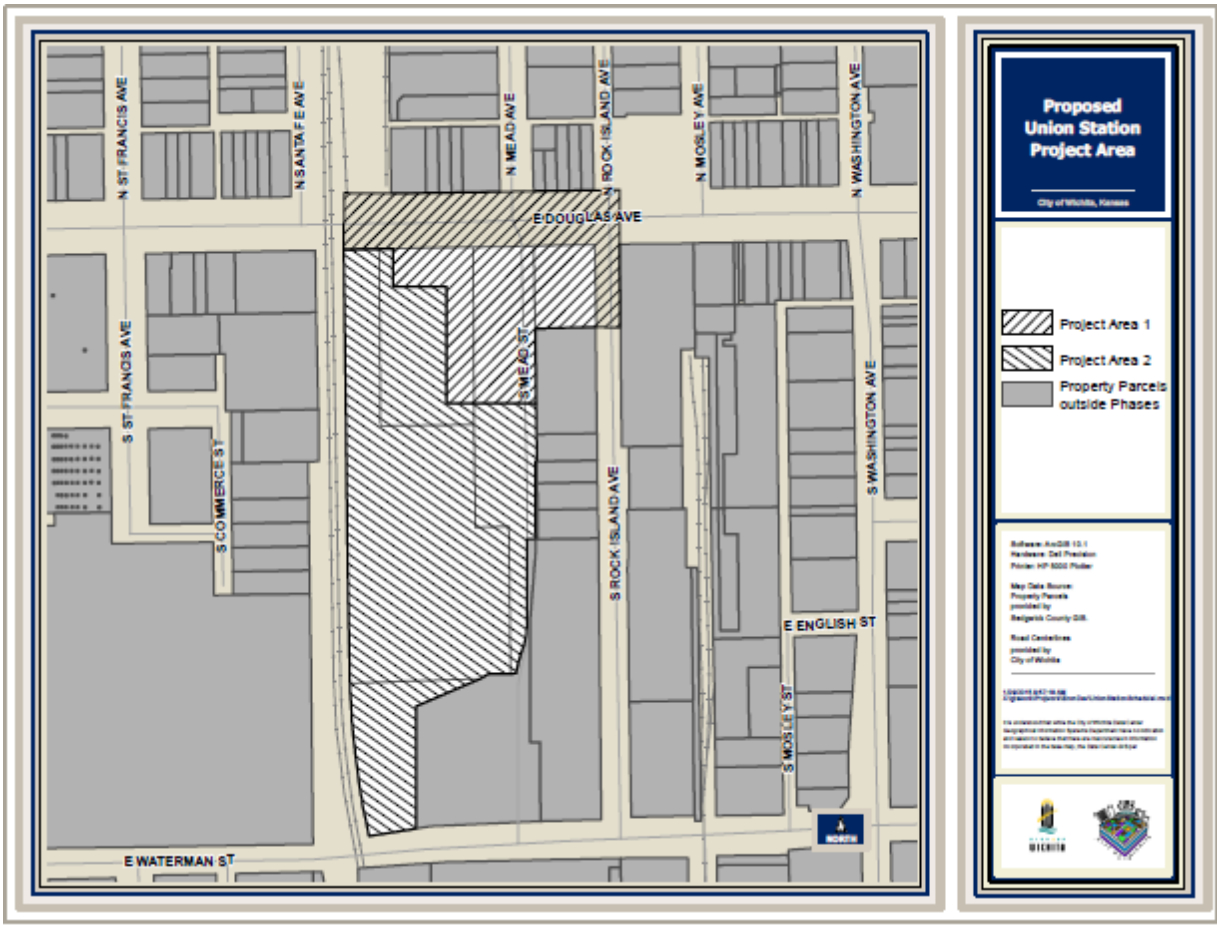

Exhibit B

Legal Description
Project Area 1

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00’00”W along the east line of said Lot 3, 170.72 feet; thence S89°56’00”W, 125.00 feet; thence S00°00’00”W, 138.00 feet; thence S90°00’00”W, 192.20 feet; thence N00°05’00”W, 32.23 feet; thence N89°55’00”E, 11.00 feet; thence N00°05’00”W, 28.00 feet; thence S89°55’00”W, 11.00 feet; thence N00°05’00”W, 169.79 feet; thence S89°56’00”W, 104.22 feet; thence N00°05’00”W, 78.47 feet to the north line of said addition; thence N89°56’00”E along said north line, 421.86 feet to the place of beginning.

Draft: 2-4-15

DEVELOPMENT AGREEMENT

REGARDING DEVELOPMENT

OF

PROJECT AREA 1

UNION STATION REDEVELOPMENT DISTRICT

BETWEEN

CITY OF WICHITA, KANSAS

AND

UNION STATION, LLC

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DEVELOPMENT AGREEMENT
PROJECT AREA 1-UNION STATION REDEVELOPMENT DISTRICT

THIS AGREEMENT is made effective as of March __, 2015, between the **City of Wichita**, a municipal corporation organized under the laws of the State of Kansas (the **"City"**), and **Union Station, LLC**, a Kansas limited liability company (**"Developer"**), for development of a portion of the area known as Union Station, more particularly described below.

Summary

This Agreement summarizes the Developer's plans for renovation of the Project Area 1 of the Union Station Redevelopment District. Project Area 1 generally consists of the North end of the Union Station Redevelopment District and is depicted on the map in Exhibit E. The Project will include site and building improvements to the Grand Hotel, the Rock Island Depot Building, the Rock Island Baggage Building and the Plaza in front of the Main Terminal Building. Site improvements consist of planters, site lighting, landscaping, irrigation, street furniture amenities. Utility upgrades will also be realized as needed.

The City has agreed to support the Project by establishing the Union Station Redevelopment District which includes the Project Land and by providing pay-as-you-go Tax Increment Financing to fund TIF Eligible Costs pursuant to the Union Station Project Area 1 Plan dated February 5, 2015 (the **"Project Plan"**), and to finance and construct certain related utility improvements as described herein.

Background and Recitals

The following Background and Recitals contain merely an overview of the Project and are not intended to fully describe the obligations of the City and Developer. The specific terms and obligations are more fully set forth in the Agreement itself.

(i) Developer will develop and construct the Project according to the Development Plan, the Project Plan and the terms of this Agreement.

(ii) The Developer will be reimbursed TIF Eligible Costs through pay-as-you-go tax increment financing.

(iii) Developer will own the Project Land, including the Project Buildings and the other improvements made thereon, subject to the Public Access Area 1 Easement and the City Minor Street Privilege.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, agree as follows:

Section 1
Definitions and Exhibits

1.1 Certain Definitions. For purposes of this Agreement, each of the following terms, when used with an initial capital letter, shall have the following meaning:

"Affiliate" means any person, entity or group of persons or entities which controls a Party, which a Party controls or which is under common control with a Party. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management

and policies, whether through the ownership of voting securities, by contract or otherwise. Affiliate shall include any legal entity of which (i) at least 51% of the voting interest is controlled by one of the Parties or by Gary Oborny or (ii) at least 51% of the ownership interest is controlled by one of the Parties or by Gary Oborny.

"**Agreement**" means this Development Agreement.

"Base Year" means the 2014 calendar year.

"**City**" means the City of Wichita, a municipal corporation organized under the laws of the State of Kansas, and whenever this Agreement requires "approval of the City" or words of similar intent, such approval must come from the City Council, or the City Representative as provided herein.

"**City Council**" means the City Council of the City of Wichita.

"City Minor Street Privilege" means the right of access, construction, and maintenance of site improvements in the City Minor Street Privilege Area in accordance with Chapter 10.08 of the Code of the City of Wichita.

"City Minor Street Privilege Area" means the area as legally described on Exhibit E.

"**City Representative**" means the City Manager of the City or his or her designee. The City Representative shall have full power and authority to implement the decisions of the City Council and to act on behalf of the City in the exercise of its rights and responsibilities under this Agreement. Developer may rely on the decisions and direction of the City Representative made pursuant to this Agreement as the directions of the City.

"**Completed**" or "**Completion**" means, with respect to the Project when: (a) the Project Architect certifies in writing on a form prescribed by the American Institute of Architects to the City and Developer that the construction of the Project or a phase of the Project is substantially completed in accordance with the Development Plan and the Project Plan to permit use of the Project for the purposes for which it was intended, and (b) a conditional or final occupancy permit has been issued, which date may precede the full completion of all punch-list items, and nonessential landscaping and similar design and development functions.

"**Contractors**" means the General Contractor and all other contractors, subcontractors, suppliers, persons, or entities that are engaged for construction or to provide labor, materials, supplies, or services of any kind in regard to the Project.

"**Developer**" means Union Station, LLC, a Kansas limited liability company (or its Affiliate with the approval of the City Representative).

"**Developer Improvement Contribution**" means the equity funds and Loan proceeds that Developer makes available to develop and construct the Project.

"**Development Budget**" means an estimated budget or budgets, including modifications of the budget(s), for the total cost of development and construction of the Project, including design, development, financing, construction, furnishing, fixturing, landscaping, hardscaping, equipping and pre-opening, as approved by the City and attached as Exhibit B.

"**Development Concept**" means the Development Concept attached as Exhibit D.

"**Development Plan**" means the Site Plan, Development Schedule, and Development Budget for the Project as approved by the City and Developer at the time of execution of this Agreement and as the same are amended as provided by this Agreement.

"**Development Schedule**" means the projected development schedule for the Project attached as Exhibit C.

"District" means the redevelopment district consisting of the Project Land and adjoining property in the Union Station Redevelopment District as created by the City under Ordinance No. 49-839.

"**Force Majeure**" means war, riots, civil commotion, strikes, labor disputes, embargoes, natural disasters, Acts of God or other cause or contingency similarly beyond control of the Party whose performance is affected thereby.

"**General Contractor**" means the general contractor(s) for the Project or phases of the Project, as the case may be, to be selected by Developer.

"Grand Hotel Building" means the property in the City and commonly known by that name and located at 801 - 811 East Douglas and generally depicted on Exhibit A.

"Grand Hotel Improvements" means site improvements that will include new sidewalk pavers and concrete along Douglas Avenue, a new drive-thru along the east façade, re-paving and new sidewalk on the south, and new sidewalk and pavers along Mead Street. These areas will also include new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof, restored and coated exterior masonry, new HVAC, and window replacement at all existing openings. Utility laterals and life-safety improvements will include sanitary sewer, water, electrical, and data and communication upgrades, and full fire protection (sprinklered). New construction improvements will include canopies at the north and south facades, and new entrances at the south façade. The existing west canopy will be refurbished. All interiors will be new mixed use finishes and will include an elevator.

"**Loan**" means a loan or loans to Developer in an amount sufficient to allow Developer to complete the Developer Improvement Contribution whether or not pledging some or all of the Project Land and improvements. All Loans shall be at commercially reasonable rates or better in order for the portion allocable to TIF Eligible Costs to qualify as TIF Eligible Costs.

"**Parties**" means, collectively, the City and Developer; "**Party**" means either of the Parties.

"Plaza Area" means the area to the immediate east of the Terminal Building, wrapping around and inclusive of the frontage along Douglas Avenue as generally shown on Exhibit A.

"Plaza Improvements" means new hard-scape surfaces consisting of a combination of pavers divided by concrete "ribbons", and new concrete sidewalks. New planters, site lighting, landscaping, irrigation, and street furniture amenities will be included. New construction consisting of steps and planters directly in front of the Terminal Building, plus a glass canopy for food service tenants along the west retaining wall will be included.

"**Project**" means the Project Area 1 Project Plan of Developer to make the following improvements: Grand Hotel Improvements; Rock Island Passenger Depot Building Improvements; Rock Island Baggage Depot Building Improvements; and Plaza Improvements. The Project shall not include the Related Utility Improvements which have been financed and constructed by the City.

"**Project Architect**" means the architect for the Project, to be selected by the Developer.

"Project Buildings" means the Rock Island Passenger Depot Building, Rock Island Baggage Depot Building, and Grand Hotel Building.

"**Project Land**" means the real property described on Exhibit E and all improvements thereon, including the tracts or parcels of land upon which the Project will be constructed, together with all rights, privileges, licenses and easements appurtenant to such tracts.

"Public Access Area" means an area as described on Exhibit E and made available by Developer to the public for portions of the Project Land where certain of the public improvements will be located and in which the Developer will maintain control over the maintenance and use, subject to reasonable access by the public.

"Public Access Area Costs" means the costs incurred by Developer in the grant of the Public Access Area 1 Easement to the City in the amount of Four-Hundred Thirty-Two Thousand Five Hundred Eighty Dollars ($432,580).

"Public Access Area 1 Easement" means the easement in the form attached hereto as Exhibit H which will convey the Public Access Area to the City for the benefit of the public.

"**Related Utility Improvements**" means the utility improvements which the City financed and constructed at its cost as described and shown on Exhibit L.

"Rock Island Baggage Depot Building" means the property in the City and commonly known by that name and located at 811 East Douglas and as generally depicted on Exhibit A.

"Rock Island Baggage Depot Building Improvements" means site improvement including new planters and sidewalk pavers along the east and west facades, and new sidewalk/pavers at the north and south facades of the Rock Island Baggage Depot Building. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof (faux historic slate shingles) and restored and rebuilt masonry.

"Rock Island Passenger Depot Building" means the property located in the City and commonly known by that name and located at 801 East Douglas and as generally depicted on Exhibit A.

"Rock Island Passenger Depot Building Improvements" means site improvements including new planters and sidewalk pavers along Douglas Avenue, a new drive-thru with new planters and sidewalk pavers along the east façade, re-paving and new sidewalk pavers on the south of the Rock Island Depot Building, and new planters, sidewalk, and pavers along the west (private) drive. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. The trash screen and utility pit/screen at the south end will be reconfigured and rebuilt. The existing screen fence at the southwest corner will be eliminated. Open-type fencing will define new outdoor dining areas along the entire west and north sides. Building improvements will include a new roof (faux historic slate shingles), restored and rebuilt masonry, new HVAC, and all window openings will be refurbished. Utility lateral improvements will include sanitary sewer, water, electrical, and data and communication upgrades. The interior will be new restaurant finishes, fixtures, furniture, and equipment on both floors.

"**Site Plans**" means the drawings, renderings and plans depicting the appearance of the Project attached as Exhibit A.

"**Specialists and Consultants**" means the Project Architect and the Contractors, together with other planning, architectural, engineering, interior design and other specialists and consultants selected by the Developer for the design and construction of the Project.

"Tax Increment" means the difference between the amount of real property taxes collected within the Union Station Redevelopment District and the Base Year property taxes specified for the District in this Agreement, pursuant to K.S.A. 12-1770 et seq.

"Tax Increment Funds" means 100% of the funds actually paid to the City by the Sedgwick County Treasurer as incremental property taxes collected for the Union Station Redevelopment District, pursuant to K.S.A. 12-1770 et seq. No fees will be charged or collected by the City from the Tax Increment Funds.

"Terminal Building" means the property in the City commonly known by that name and located at 701 East Douglas and as generally depicted on Exhibit A.

"Terminal Operations Building" means the property commonly known by that name and adjoined to the south end of the Terminal Building at 701 East Douglas, Wichita, KS, with a legal description given on Exhibit E.

"TIF Act" means K.S.A. 1770 *et seq.*, as amended.

"TIF Eligible Costs" means all Project costs which are eligible for reimbursement under the TIF Act, including but not limited to: Public Access Area Costs, site preparation, utility relocations, multilevel parking facilities, water mains and extensions, plazas, sidewalks, street grading, paving, curbing, guttering, surfacing, street light fixtures, connection and facilities, landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities, related expenses to redevelop and finance the redevelopment, including Loans and fees paid to financial advisors, architects, engineers, attorneys, and accountants.

"**TIF Eligible Costs Cap**" is defined in Section 8.2.

"Union Station Project Fund" means a special fund of the City to pay redevelopment project costs in which the City shall deposit Tax Increment Funds received from the County Treasurer pursuant to K.S.A. 12-1775.

1.2 Other Definitions. In addition to the terms defined in Section 1.1, other terms will have the definitions provided elsewhere in this Agreement.

1.3 Exhibits. The exhibits identified in this Agreement and attached to it, or otherwise identified by the signing or initialing of the Parties, are incorporated by reference and made a part of this Agreement as though they were fully set forth in the text of this Agreement.

Section 2
Project

2.1 Project. Developer shall provide the Developer Improvement Contribution to the planning, development, and construction of the Project, and shall provide or cause all services, equipment, materials, supplies, labor, and every article of any kind necessary or appropriate for the planning, development, and construction of the Project, all in accordance with the Development Plan, the Project Plan and the terms of this Agreement. The Parties acknowledge that the Developer's

responsibilities may be undertaken by Affiliates of the Developer or third parties. Developer shall be an independent contractor for all purposes, and nothing contained in this Agreement nor any actions of the Parties shall be construed to create a partnership, joint venture, or agency relationship between the City and Developer. No one performing work on the Project under the direction of Developer, or under the direction of any of the Contractors, shall be deemed to be an employee of the City for any reason or purpose whatsoever.

2.2 Public Access Area. Prior to the release of any Tax Increment Funds to the Developer in accordance with Section 8, upon Completion of construction of the Project, Developer shall execute and deliver to the City the Public Access Area 1 Easement in the form attached as Exhibit H, which shall make the Public Access Area available to the public, reserving to the Developer the right to retain reasonable control over all scheduling, building, maintenance, use, design and ownership of the Public Access Area. The Public Access Area 1 Easement will be perpetual and recorded by the City in the real estate records of Sedgwick County, Kansas.

The Public Access Area 1 Easement shall also provide that Developer, or current owner of the Project Land, shall have the right to construct improvements on the Public Access Area without requiring amendment to the easement under the following procedures:

a. By the Developer granting to the City the same easement rights to an equal number of square feet from the Project Land acceptable to the City in writing to replace the land removed for the improvements;

b. By mutual agreement between the Developer and the City Representative; or,

c. By the City Council, upon request of the Developer, if the Developer and City Representative do not reach mutual agreement on construction of improvements on the Public Access Area.

All land upon which improvements are permitted in accordance with this procedure will be deemed as removed from the Public Access Area 1 Easement to the extent of the foot print of the improvements.

The Developer shall cause any necessary subordinations of any mortgages or similar documents, so that the Public Access Area 1 Easement is senior to such mortgages or similar documents. The Public Access Area 1 Easement shall include all of the Public Access Area.

2.3 Project Use. Subject to applicable statutory and land requirements, Developer may convert any part of the Project Land into a different use than as approved in the Development Plan or the Project Plan, or sell some or all of the buildings or Project Land at any point in the future, all as provided by this Agreement.

2.4 Conditions Precedent to Developer's Obligations. The Developer's obligation to commence construction of the Project shall be conditioned upon the closing by Developer of a guaranteed Loan to finance the Project, or Loan to finance a phase of the Project upon terms acceptable to Developer. In addition to other cancellation provisions under this Agreement, this Agreement may be cancelled by Developer if Developer is unable to obtain financing and equity on terms acceptable to Developer in its sole discretion sufficient to make the Developer Improvement Contribution.

2.5 Land Use Restrictions. The types of land uses and retailers set forth in Exhibit G hereto are prohibited on the Project Land, unless approved in writing by the City prior to the execution of a letter of intent, lease or prior to the sale of land.

2.6 Design of the Project.

2.6.1 The Developer shall be responsible for the design of the Project, subject to the City's right of review in accordance with this Section and all applicable building codes, laws, and

regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws). The Developer shall provide the City with preliminary plans and specifications for each phase of the Project when they are prepared. The City shall review such plans and specifications to determine whether they are in substantial conformance with applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws), the Development Plan, the Project Plan and this Agreement. The City shall provide the Developer with its approval or reasonable objection to the plans and specifications within fifteen (15) calendar days of the City's receipt of the plans and specifications. In the event the City has reasonable objections to the preliminary plans and specifications, the City shall provide a written notice of such objections detailing the substantial non-conformance of the preliminary plans and specifications with applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws) and this Agreement and its specific demands of modification to the plans and specifications. The City and the Developer shall meet within five (5) business days to discuss any such objections by the City.

2.6.2 Upon approval of the preliminary plans and specifications, the Developer shall:

(a) Prepare final plans and specifications, including detailed drawings, construction plans, and technical specifications to show the character and scope of the work to be performed by contractors for the Project.

(b) Furnish to the City the number of copies of such final plans and specifications as required by the City.

The final plans and specifications shall be attached hereto as Exhibit I upon completion and approval by the City and shall be incorporated herein by reference.

2.6.3 The Parties anticipate that the layout and size of particular buildings and building improvements, as well as the Development Plan itself, will be amended by Developer from time to time to reflect changes in market conditions, economic demands, engineering, and construction review, construction costs and that such changes are within the scope and intent of this Agreement provided that: a) the changes are consistent with the Development Concept, and b) Developer provides City Representative with reasonable notice of the changes. All such changes shall be subject to the submittal of new plans and specifications as provided in Sections 2.6.1 and 2.6.2 above unless waived in writing by the City. To the fullest extent permitted by applicable law and ordinance, the City Representative is authorized to approve minor adjustments to the Development Plan in accordance with the requirements of this Section 2.6.3. Changes to the Project Plan which meet the TIF Act definition of a "substantial change" shall be subject to public notice and hearing as required by the TIF Act.

2.7 Removal of Property from District. City agrees it will not remove any property from the District as provided in K.S.A. 12-1771(g) without the prior written consent of Developer.

2.8 Related Utility Improvements. City, at its sole cost and expense, has constructed and completed the Related Utility Improvements. If it is determined during construction of the Project that utilities need to be repaired, modified or replaced, then Developer and City will work together to determine a solution.

Section 3
Construction Phase

3.1 Conditions Precedent to Construction. The following matters shall be completed before construction begins on any portion or phase of the Project which involves TIF Eligible Costs.

3.1.1 Delivery of Documents. The documents listed below (or copies), as well as any other documents reasonably required prior to commencement of construction, have been delivered to the City Representative. When necessary, Developer shall also procure the requisite filings of such documents with the appropriate officials:

(a) Construction permit and all other permits required before commencement of construction;

(b) Policies or certificate(s) of insurance evidencing that Developer has procured all insurance required by this Agreement;

(c) Satisfactory evidence to City Representative that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing under the laws of Kansas and the laws of its state of its domicile;

(d) The Development Budget;

(e) The Development Plan;

(f) Executed copies of the construction contract between Developer and the General Contractor, and the contract between the Developer and the Project Architect;

(g) Such other documentation including plans and specifications, schematic drawings and renderings of the Project as may reasonably be requested by the City Representative to insure the orderly development of the Project;

(h) Path of schedule for the Project phases; and,

(i) All approvals from the local Historic Preservation Board for the historic buildings provided said buildings are part of a historic preservation project needed for development of the Project phase have been obtained in writing.

3.2 Construction. Developer will cause commencement of construction of the Project to begin upon completion of the conditions in Section 3.1.1, and subject to market conditions, Developer will pursue Completion of construction with due diligence thereafter. During construction of all phases of the Project, Developer agrees to the following conditions and instructions (where applicable, to the respective parts of the Project):

(a) To cause construction of the Project in a workmanlike manner, free of any material defects, in accordance with the final plans and specifications approved by the City, and in accordance with all applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws);

(b) To obtain all utility permits, certificates of occupancy, and all other licenses, permits and easements required for the operation of the Project;

(c) Supervise the timely and efficient performance of the Contractors and the Specialists and Consultants under their respective contracts with Developer to enable them to perform their work in a timely, safe, professional and workmanlike manner.

3.3 Construction in Phases. The Project may be constructed in phases. Construction will begin after closing of the Loan, and is anticipated to begin in the 2nd quarter of 2015 and be completed in fifteen months. Work on a particular building or portion of the Project may be adjusted by the Developer to different phases as construction, development and leasing advance in order to accommodate the orderly progress of this large and complex project.

3.4 Public Infrastructure. Developer shall have the right to perform all engineering, bidding, construction and inspection of the same in coordination with the City for all necessary public infrastructure for the Project. Developer shall comply in all respects with the City's policy set forth in Exhibit J and incorporated herein by reference. All public infrastructure improvements shall be constructed by Developer subject to City's standard review and permitting procedures and pursuant to the provisions of Exhibit J attached hereto and incorporated herein. All contracts and subcontracts for the construction of the public infrastructure improvements shall be competitively bid by Developer and the City shall have access to all such bidding documentation. The Developer shall provide to the City the statutory bonds and performance bonds required by the City for the public infrastructure improvements. All plans and specifications for the public infrastructure improvements shall be approved by the City Engineer.

3.5 Crosswalk. The City shall install at its cost a non-signaled cross walk at the entry between the Rock Island Passenger Depot Building and the Plaza Area. The cross-walk shall be completed before Developer Completes construction of the Project.

3.6 Douglas Avenue Improvements. The City agrees to consult with Developer before making future improvements on Douglas Avenue frontage which abuts the Project Land.

3.7 City Minor Street Privilege. Developer's right of access, construction, and maintenance of site improvements in the City Minor Street Privilege Area, as contemplated by the Project Plan, will be provided for via the procedures for application and approval of minor street privileges in accordance with Chapter 10.08 of the Code of the City of Wichita. Upon proper application, the City shall grant to Developer a City Minor Street Privilege on the City Minor Street Privilege Area for the right of access, construction, and maintenance of site improvements along Douglas Avenue and Rock Island Street as contemplated by the Project Plan and shown on the Site Plan. The terms of the Minor Street Privilege shall be jointly approved by the Developer and City. The Director of Operations and Maintenance shall waive the permit fee for the term of the Project Plan pursuant to City Code Section 10.08.210(c) based upon the determination that the project involves public beautification and improvement of public property for public purposes.

Section 4
Additional Rights and Obligations

4.1 Approvals. Whenever this Agreement requires the consent or approval of the City Representative, the City Representative, in his or her sole discretion, may instead present the question to the City Council for the necessary consent or approval. Notwithstanding the foregoing, the Parties intend that City Council approval shall not be required or necessary for changes in the Development Plan which

do not affect the City's expenditures and are consistent with the Development Concept, unless otherwise required by law.

4.2 Title to Property. Developer shall own the improvements and the Project Land in fee simple, free and clear of all liens and encumbrances, subject only to liens and encumbrances placed thereon by Developer and real estate taxes and special assessments.

4.3 Related Improvements. Developer may construct at Developer's sole cost related improvements, such as landscaping and streetscaping, and the City Representative will coordinate and cooperate with Developer to accommodate those improvements within the Project schedule.

4.4 Development Assistance. The City will provide development assistance to Developer, as needed, to facilitate and expedite the issuance of building permits and compliance with other City-controlled requirements relating to completion of the Project. Developer may apply for applicable waivers of fees as allowed by the City's ordinances.

4.5 Access to Site. The Developer shall be provided access to streets adjacent to the Project Land during periods of demolition and construction in accordance with the Chapter 10.08 of the Code of the City of Wichita.

4.6 Certificate and Release- Gilbert and Mosely. Upon receipt of the proper application by Developer, the City will issue a certificate and release to Developer in regard to the Gilbert and Mosley groundwater contamination in accordance with the customary process for application and issuance of those certificates.

4.7 Certificate of Completion and Non-Default. Upon Completion of the Project, the City Representative shall provide a written Certificate of Completion and Non-Default to the Developer which states that: a) the Project has been Completed as defined by the Development Agreement; b) at the time of Completion to the knowledge of the City and the City Representative there was no uncured default of the Developer under the terms of the Development Agreement; and c) that any subsequent default of Developer in a later project plan in Project Area 2 shall not terminate or modify Developer's right to receive Tax Increment Funds for TIF Eligible Costs from Project Area 1. Provided however, the City Representative shall not be required to issue this Certificate if the City has issued a notice of default which remains uncured as described in Section 10. In that event, the Certificate shall be issued after the default is cured, withdrawn or otherwise resolved.

Section 5
Insurance, Bonding, and Indemnification

5.1 Types of Coverage. Developer shall carry, or cause the General Contractor to carry, the following insurance coverage insuring Developer, General Contractor, and City as specified below through final completion (as defined in the construction contracts):

(a) Special or builder's "all risk" insurance (including theft, vandalism, boiler, and pressure vessel coverage), in an amount reasonably acceptable to the Developer, insuring Developer's interests in each respective phase of the Project and any and all furniture, equipment, supplies and other property owned, leased, held or possessed by Developer n the Project (insurance shall also insure against loss from collapse of any part of the building or other structural failure during construction);

(b) Comprehensive general liability insurance insuring Developer and City against all liability for injury to or death of a person or persons and for damage to property in any way occasioned by or arising out of the activities of Developer, City, and their respective agents, contractors, or employees, in connection with the design and construction of the Project, in the amount of not less than Five Hundred Thousand Dollars ($500,000) or in such other amounts as may be reasonably acceptable to Developer and the City, provided, however, such policies shall not name the City, or insure the City, for an amount of coverage in excess of the City's maximum liability pursuant to the Kansas Tort Claims Act and amendments (and any similar law limiting the liability of the City);

(c) Workers' compensation insurance;

(d) Automobile insurance (if applicable) with per occurrence limits of not less than $500,000, or comparable Hired and Non-owned coverage included in General Liability; and

(e) All other insurance as required by law.

5.2 Policy Requirements. The following general requirements shall apply to all insurance coverage carried by Developer and General Contractor pursuant to Section 5.1:

(a) To the extent available, each policy shall contain a clause whereby the insurer waives all rights of subrogation against General Contractor, Developer, and City, as the case may be;

(b) Subject to the limitations on builder's risk coverage in Section 5.1(a) and on general liability insurance in Section 5.1(b), the City shall be named as its interests appear in all policies obtained by Developer and General Contractor;

(c) Such policies shall be with reputable insurance companies reasonably acceptable to Developer, City, and General Contractor and licensed to do business in Kansas;

(d) Developer shall provide the City Representative with policies or certificates of insurance evidencing such coverage prior to the start of construction;

(e) Within thirty (30) days prior to expiration of coverage, or as soon as practicable, renewal policies or certificates of insurance evidencing renewal and payment of premium shall be provided by Developer to the City Representative; and

(f) The policies must be non-cancelable unless the carrier provides to the City Representative thirty (30) days' prior written notice of cancellation.

5.3 Indemnification. Developer agrees to indemnify, hold harmless, and defend the City, inclusive of members of the City Council, officers, agents, and employees (collectively referred to as the **"City Indemnified Parties"**) from and against all loss, damage, liability, cost or expense including, but not limited to, attorneys' fees and court costs incurred or suffered by or claimed against any of the City Indemnified Parties by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence or willful misconduct of Developer, its officers, directors, agents, or employees.

The City's liability for any claims asserted by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence of willful misconduct of the City, its officers, directors, agents, or employees, shall be governed by the Kansas Tort Claims Act and other applicable laws of the State of Kansas.

Section 6
Term and Survival

The term of this Agreement shall commence upon the date of this Agreement and, unless terminated sooner as provided in this Agreement, shall end on the date that all of the following have occurred: all TIF Eligible Costs have been paid from the Tax Increment Funds, subject to the requirements and limitations set forth in Section 8, or 20 years after the date the ordinance approving the Project Plan was approved. However, the following provisions of this Agreement shall survive beyond the end of the term to the extent still applicable at the time: all representations and warranties; all agreements of indemnification; limitations on assignment under Section 9.16; and limitations concerning the Cash Basis and Budget Laws.

Section 7
Representations, Warranties, and Guaranties

7.1 City. The City warrants and represents to Developer as follows:

(a) It is a municipal corporation, duly incorporated and validly existing under the laws of the State of Kansas.

(b) It has full power and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the limitations expressed herein or otherwise imposed by law.

(c) The execution and delivery of this Agreement and the other documents contemplated herein will not conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

7.2 Developer. The Developer warrants and represents to City as follows:

(a) It is a limited liability company duly organized, validly existing, and in good standing under the laws of Kansas.

(b) It has the requisite power through its managing member to execute the documents under this Agreement and to consummate the transactions contemplated thereby.

(c) The execution and delivery of this Agreement and the other documents contemplated herein will not conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

(d) It is duly authorized and registered to carry on business in Kansas pursuant to the laws of Kansas.

(e) All contracts with Contractors shall warrant that the work performed or material supplied by that Contractor to the Project will be free from any defects in materials and workmanship for

a period of at least one (1) year from the date of Completion, and that such warranty does not restrict or otherwise limit that Contractor's obligation to construct the Project in a workmanlike manner and in accordance with the Development Plan as it pertains to that Contractor's work.

(f) It shall use reasonable care to insure that all Specialists and Consultants selected in connection with the design and construction of the Project shall be highly qualified to do the work they are engaged to perform and Developer shall make reasonable inquiries as to such persons' background, experience and reputation to assure they are well qualified to undertake such work.

Section 8
Tax Increment Funding and Process

8.1 Union Station Project Fund. Pursuant to City Ordinance No. 49-839, as Tax Increment Funds are generated over the life of the District, the City will reimburse Developer for actual TIF Eligible Costs incurred, including but not limited to the Public Access Area Costs, but only to the extent that Tax Increment Funds are generated. The City shall establish a Union Station Project Fund as provided by K.S.A. 12-1775 to deposit Tax Increment Funds received from the District. Those Tax Increment Funds will be paid to Developer for reimbursement of TIF Eligible Costs.

8.2 Payment of TIF Eligible Costs. When the annual Tax Increment Funds have been actually paid to the City by the Sedgwick County Treasurer as incremental property taxes collected for the District pursuant to the TIF Act, and the applicable TIF Eligible Costs are documented to the satisfaction of the City as described in Section 8.3 below, the Tax Increment Funds shall be released to Developer for reimbursement of such TIF Eligible Costs within ten (10) days thereafter. The estimated amount of TIF Eligible Costs which will be reimbursed from Tax Increment Funds is Two Million Four Hundred Seventy-Five Thousand Nine Hundred Dollars ($2,475,990), and Developer shall be allowed reimbursement of all TIF Eligible Costs up to 110% of this amount (the "**TIF Eligible Costs Cap**"). Any amounts in excess of the TIF Eligible Costs Cap shall not be eligible for reimbursement from Tax Increment Funds without the City Representative finding that such excess improved the Project Area in a manner consistent with the Project Plan and such costs are not excessive or unreasonable. Financing and interest costs of that part of a Loan allocable to TIF Eligible Costs, reimbursed to Developer shall not be subject to the TIF Eligible Costs Cap.

8.3 Certification of Expenditure of TIF Eligible Costs. Developer shall submit to the City a Certificate of Expenditures in the form attached as Exhibit F setting forth the amount for which payment is sought and an itemized listing of the TIF Eligible Costs. Each Certificate of Expenditures shall be accompanied by such bills, contracts, invoices and other evidence as the City shall reasonably require to document appropriate payment of a TIF Eligible Cost.

The City shall have twenty (20) days after receipt of the Certificate of Expenditures to review and respond in writing to the Developer. The City shall approve the Certificate of Expenditures and promptly reimburse the Developer as described in Sections 8.1 and 8.2 when: (1) the TIF Eligible Costs sought to be reimbursed are reasonably itemized; and (2) evidence adequately demonstrates that Developer has paid the TIF Eligible Costs for which reimbursement is requested. If the City reasonably disapproves of any item on the Certificate of Expenditures, the City shall notify the Developer in writing of the reason for such disapproval within such twenty (20) day period and release payment for all undisputed TIF Eligible Costs. A Certificate of Expenditures will be deemed approved by the City if the City does not respond within the above mentioned twenty (20) days after submittal.

Section 9
General Provisions

9.1 Governing Law. This Agreement and the legal relations between the Parties shall be governed by, construed and interpreted under the laws of the State of Kansas, and exclusive venue for all disputes and litigation shall be in Wichita, Sedgwick County, Kansas only.

9.2 No Waiver. No failure of a Party to exercise any power given under this Agreement or to insist upon strict compliance of another Party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

9.3 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties not embodied or referenced herein shall be of any force or effect.

9.4 Written Amendments. Any amendment to this Agreement shall not be binding on any of the Parties unless the amendment is in writing, is duly authorized, and is duly executed by the Parties to this Agreement.

9.5 Time of Essence. Time is of the essence of this Agreement.

9.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

9.7 Headings. The headings of the sections and subsections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

9.8 Notices. All notices required to be given under this Agreement shall be delivered in writing and delivered either by (a) hand delivery, and considered delivered upon receipt, (b) telefacsimile, and considered delivered upon completion of transmittal, (c) certified mail, and considered delivered upon signed receipt or refusal to accept notice, or (d) nationally-recognized overnight delivery service, and considered delivered the next business day after the notice is deposited with that service for delivery. For notice purposes, the Parties agree to keep each other informed at all times of their current addresses. For purposes of notices or other written communications, the addresses of the Parties shall be as follows:

(a) If to the City:

City Manager
City Hall, 13th Floor
455 North Main Street
Wichita, Kansas 67202
Fax # (316) 268-4519
and
City Clerk
City Hall, 13th Floor
455 North Main Street
Wichita, Kansas 67202
and
City Attorney
City Hall, 13th Floor

455 North Main Street
Wichita, Kansas 67202
Fax # (316) 268-4335

(b) If to Developer:

Gary Oborny, Managing Member
Union Station, LLC
8111 East 32nd Street North, Suite 101
Wichita, Kansas 67226
Fax # (316) 262-6321

and

Adams Jones Law Firm, P.A.
Attention: Mert Buckley
1635 N. Waterfront Parkway #200
Wichita, KS 67206
Fax # (316) 265-9719

9.9 Electronic Transactions. The transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

9.10 Validity and Severability. It is the intention of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Kansas, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

9.11 Licenses and Permits. It shall be the ultimate responsibility of Developer to secure all local licenses and permits required to be obtained by Developer or City with respect to construction, completion and occupancy of the Project, including any necessary building, occupancy, sewer and utility permits. The City shall cooperate with Developer and all Contractors to the extent permitted by law, as needed, to facilitate and expedite the issuance of these licenses and permits.

9.12 Documents. All as-built drawings, plans, specifications, and other documents prepared for the Project pursuant to this Agreement are and shall remain the property of Developer whether or not the Project is Completed.

9.13 Approvals. Whenever the approval or consent of a Party is required in this Agreement, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

9.14 "Including." Whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the words "including without limitation," and the general words shall be construed in their widest extent, and shall not be

limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

9.15 Binding Effect. Subject to the limitations of Section 9.16, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

9.16 Assignment. Except as provided herein, no Party may assign all or any part of its interest in this Agreement without the prior written consent of the other Party, and any such assignment without such consent shall be void. The City may assign all or part of its interest to a city-established entity without approval of the other Party, but with thirty (30) days prior written notice to Developer so long as such assignee has the legal authority to fulfill the City's obligations under this Agreement and, to the extent that it does not have such authority, the assignment shall continue in effect but the City will remain obligated for such non-assignable or unauthorized obligations. Members of the Developer may pledge their membership interests in the Developer entity to the lender holding the primary Loan on the Project if so required by such lender.

At any time before January 1, 2020, Developer may transfer membership interests to other parties without the consent of the City; provided however, no such transfer may occur unless Gary L. Oborny remains the manager of the Developer and unless Gary L. Oborny or an Affiliate retains at least a 51% ownership interest in the Developer, either personally or through ownership in an entity that is a member of the Developer. Developer may assign this Agreement, in whole or in part, at any time before January 1, 2020; provided however, such an assignment shall not release Developer from any of its obligations originating from this Agreement, unless the assignee agrees to assume in writing the obligations and the City consents to the assignment and assumption.

After January 1, 2020, Developer may assign this Agreement upon notice to the City: a) to an assignee who has been approved by the City as an approved developer in accordance with existing City policy if the Project Plan has not been completed and the approved developer assumes in writing the obligations hereunder or b) to any assignee if the Project Plan is completed or no further work is anticipated on the Project Plan as provided in Section 9.20 and the assignee assumes in writing the obligations hereunder, and in the event of an assignment in compliance with the foregoing a) or b) Developer shall be released from all obligations under this Agreement.

9.17 Brokerage Commissions. Except as noted below, both Parties represent to the other that they have not discussed this Agreement or the subject matter thereof with any real estate broker, agent or salesperson so as to create any legal right in any such broker, agent or salesperson to claim a real estate commission or similar fee with respect to the transactions between the Parties contemplated by this Agreement. Occidental Management, Inc., (Occidental) an entity owned by Oborny, will act as broker and agent for purposes of development, construction, entitlements and leasing for the property owned by Union Station, LLC and shall act as property manager for any leased properties. Occidental Management, Inc. will be entitled to fees and expenses customary in the industry for such services. Both Parties hereby indemnify the other Party against and agree to hold the other harmless from any and all claims, suits, or judgments (including, without limitation, court costs and attorneys' fees incurred in connection with any such claims, suits or judgments) for any real estate commissions or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor and relating to the transactions contemplated by this Agreement.

9.18 Cash Basis and Budget Laws. It is the intent of the Parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.) (the "Cash Basis Law") or the Kansas Budget Law (K.S.A. 79-2925) (the "Budget Law"). Therefore, notwithstanding anything to the contrary herein contained, the City's obligations under this Agreement are

to be construed in a manner that assures that the City is at all times not in violation of the Cash Basis Law or the Budget Law.

9.19 Other Agreements. The Parties also covenant to negotiate and execute such additional documents as may be reasonably necessary to provide for the coordinated construction and operation of the Project.

9.20 Force Majeure. If an act of Force Majeure delays the ability of a Party to perform its obligations under this Agreement, the time for performance of the obligation shall be extended by a period of time reasonably necessary after the act of Force Majeure has ended. If an act of Force Majeure so damages the Project that it cannot be Completed within the Development Budget, then Developer may terminate this Agreement by giving written notice to the City, or make such modifications to the Development Plan as are reasonable in light of the Force Majeure event. In any such event, the Parties will pay their own respective costs and expenses incurred, and in the event of termination of the Agreement the Parties will thereafter have no further obligation to Complete construction and development of the Project.

9.21 Effect of Violation of the Terms and Provisions of this Agreement. The City is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement shall run in favor of the City, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Project or the District. The City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

9.22. Agreement Controls. The Parties agree that the Development Plan and Project Plan will be implemented as agreed in this Agreement. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing the Project, the payment of TIF Eligible Costs and all other methods of implementing the Development Plan and the Project Plan. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the Development Plan and the Project Plan and that expand upon the estimated and anticipated sources and uses of funds to implement the Development Plan and Project Plan. Nothing in this Agreement shall be deemed an amendment of the Development Plan or the Project Plan. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

9.23. Required Disclosures. The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

9.24. Tax Implications. The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

9.25. Recordation of Agreement. The Parties agree to execute and deliver an original of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in

the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Sedgwick County, Kansas. This Agreement shall be recorded by the Developer at Developer's sole cost and expense, and proof of recording shall be provided to the City.

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

9.27 Amendment and Termination. In recognition: a) of the size and complexity of the Project, b) that the Developer is financing the Project itself with pay-as-you-go financing and will only receive Tax Increment Funds after, and to the extent that, it improves the value of the Project Land, c) success of the Project depends upon unpredictable timing of tenant leasing of the Project space, and d) Developer has an economic incentive to complete the Project as described in the Development Plan, then, notwithstanding anything else to the contrary in this Agreement, Developer shall have the absolute discretion to delay, postpone or even abandon commencement of the Project without consequence under this Agreement or to its rights to receive Tax Increment Funds or future Tax Increments for eligible improvements made to the District. For purposes of this section, "commencement" of construction means the Developer has incurred hard construction costs of Five Hundred Thousand Dollars ($500,000) on the Project.

In addition to other cancellation provisions under this Agreement, this Agreement may be cancelled by Developer if Developer is unable to obtain financing and equity sufficient to make the Developer Improvement Contribution.

If Developer cancels this Agreement under the terms of this section, then the Parties will pay their own expenses incurred to date, without seeking compensation from each other, and they shall have no further obligations toward each other.

Section 10
Defaults and Remedies

10.1 In the event any party hereto (whether one or more the "**Defaulting Party**"), shall fail to perform any obligation of such party under this Agreement and shall fail to correct the same within thirty (30) days ("**Cure Period**") after written notice thereof from the party claiming such default (whether one or more, the "**Non-Defaulting Party**") specifying such failure, then the Defaulting Party shall be deemed to be in default hereunder this Agreement; provided, in the event the default cannot reasonably be fully cured within such thirty (30) day period of time then no default shall be deemed to exist hereunder so long as the Defaulting Party shall commence curing the same within such thirty (30) day period and shall prosecute the same to completion with reasonable diligence.

10.2 In the event that any party defaults on its obligations hereunder, then the non-defaulting party or parties may seek a temporary restraining order, an injunction, specific performance or any other equitable relief that the non-defaulting party or parties deem(s) reasonably appropriate. The parties hereby acknowledge that an adequate remedy in damages will not be available upon breach of this Agreement, disclaim recovery of incidental or consequential damages, and in lieu thereof agree that the parties shall be entitled to pursue the above equitable remedies as reasonably necessary in order to remedy a breach of this Agreement.

10.3 Notwithstanding anything to the contrary herein so long as the City Representative has issued a Certificate of Completion and Non-Default, a termination of this Agreement shall not terminate or modify Developer's right to receive Tax Increment Funds for TIF Eligible Costs expended to the date of termination for the remainder of the original term of the Project Plan, and any such terms of this

Agreement necessary to continue reimbursements of TIF Eligible Costs incurred to the date of termination of the Agreement shall survive the termination.

CITY OF WICHITA, KANSAS

By: _____
Carl Brewer, Mayor

Attest:_____
Karen Sublett, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

On this _____ day of _____, 2015, before me personally appeared Carl Brewer and Karen Sublett, to me personally known, who being by me duly sworn did say that they are the Mayor and City Clerk of the City of Wichita, Kansas, a Kansas municipal corporation and that said instrument was signed and delivered on behalf of said City and acknowledged to me that he executed the same as the free act and deed of said City.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year

_____
[SEAL] Notary Public

_____
Typed or Printed Name of Notary Public

My Appointment Expires:

_____

Approved as to Form:

_____
Sharon L. Dickgrafe, Interim Director of Law and City Attorney

UNION STATION, LLC

By:_____
Gary L. Oborny, Managing Member

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

On this _____ day of _____, 2015, before me personally appeared Gary L. Oborny, to me personally known, who being by me duly sworn did say that he is the Managing Member of Union Station, LLC, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
[SEAL] Notary Public

_____
Typed or Printed Name of Notary Public

My Appointment Expires:

_____

EXHIBIT A

SITE PLAN

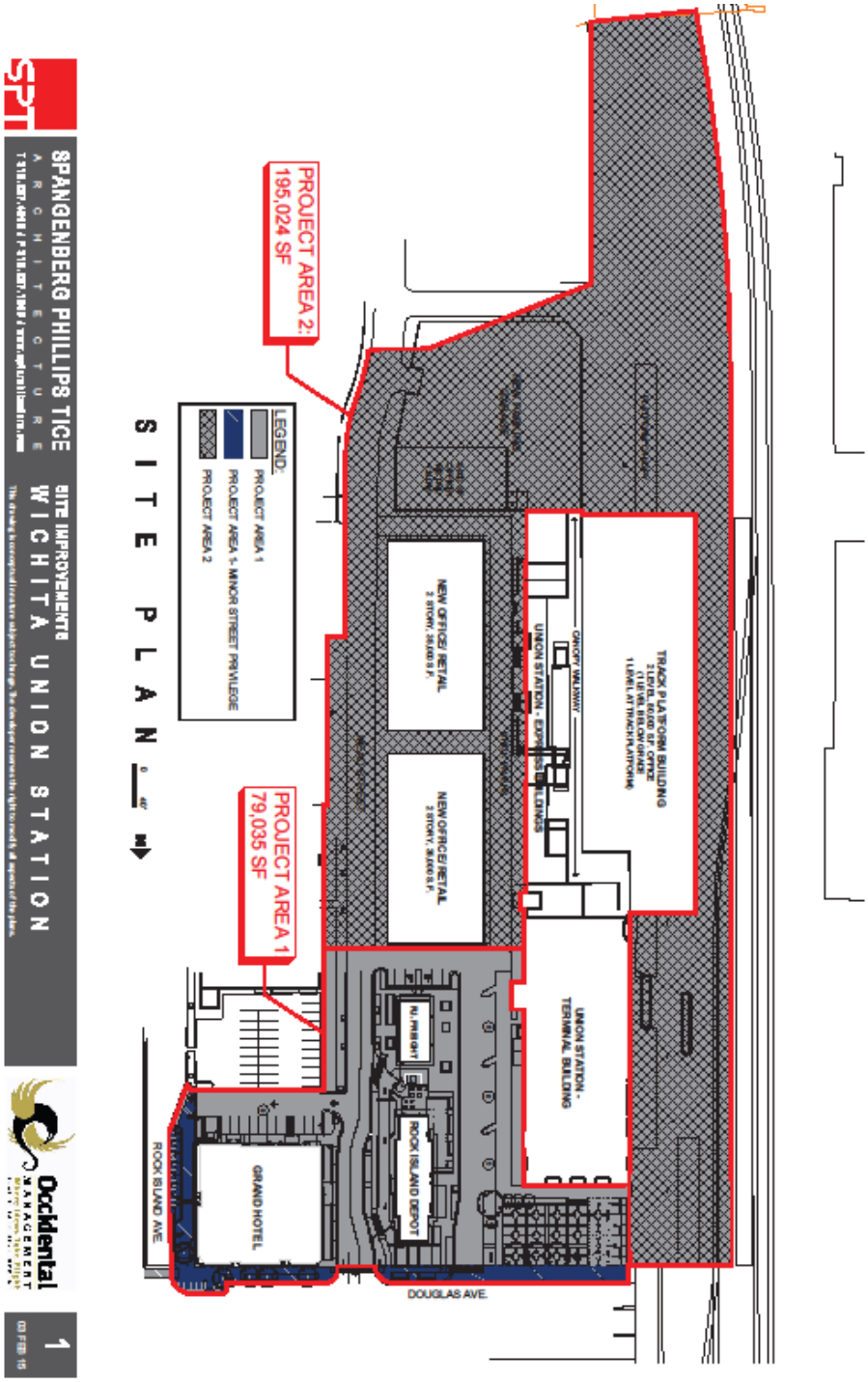


EXHIBIT B

Development Budget

Grand Hotel Building	$ 1,941,428
Rock Island Baggage Depot Building	240,643
Rock Island Passenger Depot Building	899,870
Site Improvements	1,223,354
Tenant Improvement Costs	1,094,585
Landscaping, Signage, Contingency Costs	126,184
Architectural Fees	172,212
Engineering Fees	86,106
Leasing Commission Fees	232,312
Other Soft Costs (financing, legal, holding)	227,686
Total Project 1 Development Budget	$ 6,244,380

EXHIBIT C

Development Schedule

Developer plans to commence construction in March, 2015 and estimates that construction will be completed by the end of October, 2015.

EXHIBIT D

Development Concept

The Project consists of site and building improvements to the Grand Hotel, the Rock Island Depot Building, the Rock Island Baggage Building and the Plaza in front of the Main Terminal Building. Site improvements consist of planters, site lighting, landscaping, irrigation, and street furniture amenities. Utility upgrades will also be realized. The buildings will provide a mix of office and retail use, subject to market conditions and recognizing that uses may be modified as development and leasing progresses.

EXHIBIT E

Legal Descriptions and Map of District
And Project Areas 1 and 2

Redevelopment District

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northwest corner of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas; thence N0°05'00"W along the extended west line of said Lot 1, 114.00 feet to the North Right of way of Douglas Avenue; thence N89°56'00"E along said north right of way, 580.61 feet to the East Right of Way of Rock Island; thence S00°00'00"W, along said east Right of Way, 114.00 feet to the South Right of Way of Douglas Avenue; thence continuing S00°00'00"W, along said east Right of Way, 170.72 feet; thence S89°56'00"W, 185.00 feet; thence S00°00'00"W, 276.30 feet; thence S89°56'W, 3.22 feet; thence S00°02'21"E, 162.89 feet; thence S89°52'30"W, 17.79 feet; thence S00°00'00"W, 174.09 feet to a point of curvature of a curve to the right, said curve having a radius of 165.00 feet and an arc length of 58.13 feet; chord bearing S10°05'32"W, 57.83 feet; thence along said curve, 58.13 feet to a point of reverse curve of a curve to the left, said curve having a radius of 260.00 feet and an arc length of 49.94 feet; thence along said curve, 49.94 feet; thence S89°22'00"W, 57.02 feet; thence S68°20'30"W, 171.05 feet; thence S00°00'00"W, 253.92 feet; thence S83°50'48"W, 101.63 feet; thence N09°45'00"W, 36.96 feet; to a point of curvature of a curve to the right, said curve having a radius of 1883.87 feet and an arc length of 317.84 feet; chord bearing N04°55'00"W, 317.46 feet; thence along said curve, 317.84 feet to a point of tangency; thence N0°05'00"W, 864.61 feet to the point of beginning.

Project Area 1

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00'00"W along the east line of said Lot 3, 170.72 feet; thence S89°56'00"W, 125.00 feet; thence S00°00'00"W, 138.00 feet; thence S90°00'00"W, 192.20 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 78.47 feet to the north line of said addition; thence N89°56'00"E along said north line, 421.86 feet to the place of beginning along with the adjoining right-of-way of Douglas Avenue and Rock Island Avenue.

Public Access Easement Area

Surrounding Depot Buildings. Pedestrian and Vehicular.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 249.84 feet to the place of beginning; thence S00°05'00"E, 32.00 feet; thence S88°32'37"W, 40.00 feet; thence S00°05'00"E, 212.95 feet; thence N89°56'00"E, 8.00 feet; thence N00°05'00"W, 14.00 feet; thence N89°56'00"E, 62.00 feet; thence S00°05'00"E, 14.00 feet; thence N89°56'00"E, 12.00 feet; thence N00°05'00"W, 146.92 feet; thence N17°22'27"E, 30.00 feet; thence N00°05'00"W, 55.00 feet; thence N13°13'09"W, 37.95 feet; thence N00°05'00"W, 17.00 feet to said north line; thence N89°56'00"E along said north line, 34.40 feet; thence S00°05'00"E, 116.98 feet; thence S17°22'27"W, 25.93 feet; thence S00°05'00"E, 166.98 feet; thence S90°00'00"W, 144.90 feet; thence N00°05'00"W, 235.39 feet; thence N62°08'27"E, 15.54 feet; thence N00°05'00"W, 65.89 feet to said north line; thence N89°56'00"E along said north line, 28.15 feet to the place of beginning, containing 21,815 square feet, more or less, AND

Behind (South) Grand Hotel. Pedestrian and Vehicular.

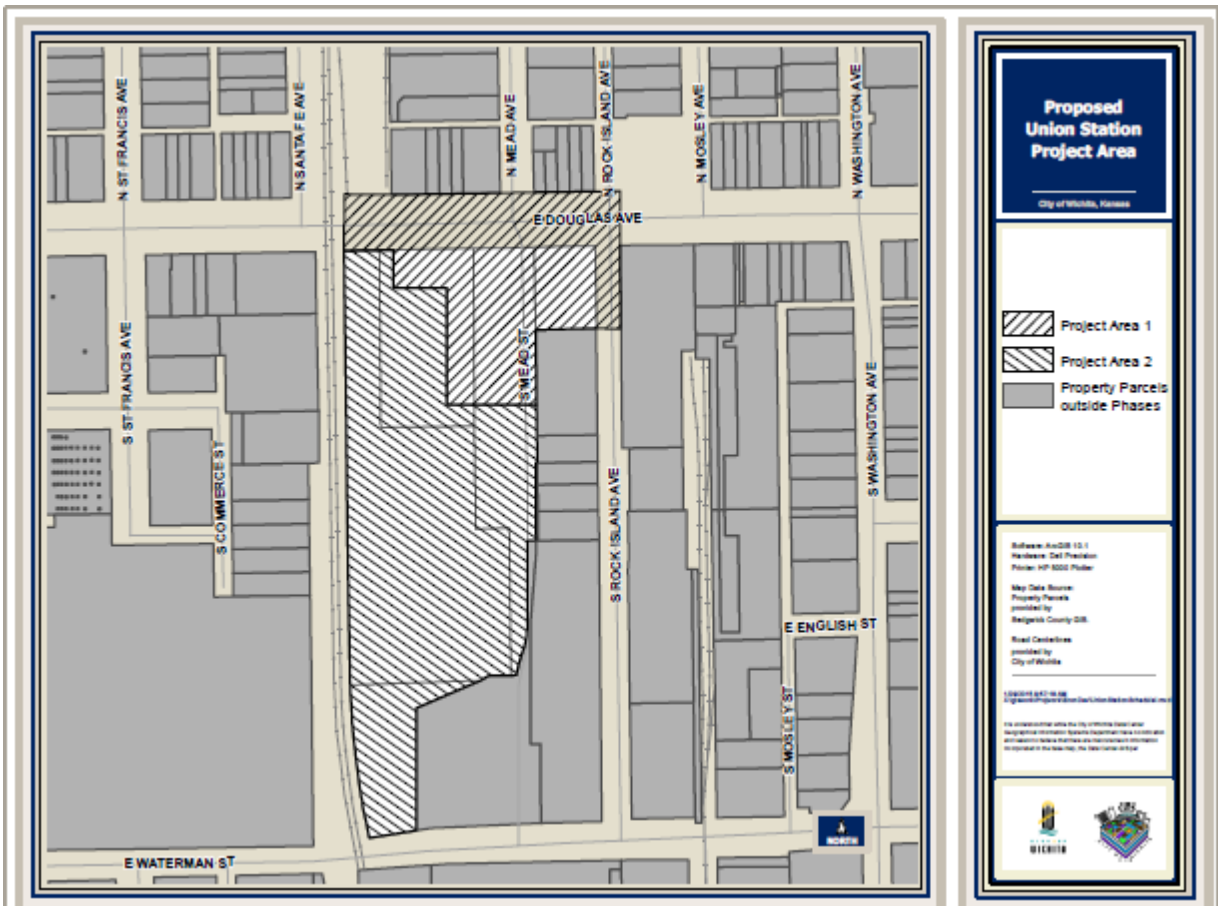
That part of Lots 1 and 3, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said addition, 125.00 feet to the place of beginning; thence S00°00'00"W along the west line of said Lot 3, 117.72 feet; thence N89°56'00"E, 77.00 feet; thence S00°05'00"E, 3.00 feet; thence N89°56'00"E, 48.00 feet to the east line of said Lot 3; thence S00°00'00"W along said east line, 50.00 feet; thence N89°36'21"W, 123.32 feet; thence S00°00'00"W, 132.00 feet; thence S90°00'00"W, 21.39 feet; thence N00°05'00"W, 166.98 feet; thence N17°22'27"E, 25.93 feet; thence N00°05'00"W, 116.98 feet to said north line; thence N89°56'00"E along said north line, 14.06 feet to the place of beginning, containing 12,148 square feet, more or less.

Plaza less Kiosk Area. Pedestrian.

That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 400.86 feet to the place of beginning; thence N89°56'00"E along said north line, 122.87 feet; thence S00°05'00"E, 65.89 feet; thence S62°08'27"W, 15.54 feet; thence S00°05'00"E, 235.39 feet; thence S90°00'00"W, 25.90 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 18.47 feet; thence N89°56'00"E, 21.00 feet; thence N00°05'00"W, 60.00 feet to the place of beginning, containing 15,557 square feet, more or less.

City Minor Street Privilege Area

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S89°56'00"W along the north line of said Lot 3 and extended, 139.06 feet; thence N00°39'46"E, 10.10 feet; thence N48°19'32"E, 7.06 feet to a point of curvature of a curve to the right, said curve having a radius of 12.00 feet and an arc length of 8.73 feet; thence easterly along said curve 8.73 feet to a point of tangency; thence S89°58'54"E, 93.97 feet; thence N01°15'08"E, 4.01 feet to a point of curvature of a curve to the right, said curve having a radius of 6.00 feet and an arc length of 9.19 feet; thence easterly along said curve 9.19 feet to a point of tangency; thence N88°58'49"E, 28.96 feet to a point of curvature of a curve to the right, said curve having a radius of 21.50 feet and an arc length of 33.85 feet; thence southeasterly along said curve 33.85 feet to a point of tangency; thence S00°49'04"E, 137.59 feet; thence S20°19'28"W, 49.36 feet; thence N56°53'51"W, 11.55 feet to the east line of said Lot 3; thence N00°00'00"E along said east line, 170.72 feet to the place of beginning; TOGETHER WITH that part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said Lot 3 and extended, 173.47 feet to the place of beginning; thence continuing S89°56'00"W along the north line of said addition, 248.39 feet; thence N00°05'00"W, 16.10 feet; thence N89°52'40"E, 230.00 feet to a point of curvature of a curve to the right, said curve having a radius of 18.50 feet and an arc length of 26.90 feet; thence southeasterly along said curve 26.90 feet to the place of beginning.


N ST FRANCIS AVE
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N ROCK ISLAND AVE
N MOSLEY AVE
N WASHINGTON AVE
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S COMMERCE ST
S MEAD ST
S ROCK ISLAND AVE
S WASHINGTON AVE
E ENGLISH ST
S MOSLEY ST
E WATERMAN ST
NORTH
Proposed Union Station Project Area
City of Wichita, Kansas
Project Area 1
Project Area 2
Property Parcels outside Phases

EXHIBIT F

Certification of Expenditures Form

Request No. _____ Date:_____

Pursuant to the Development Agreement effective as of _____, 2015 (the "Agreement") for the Union Station Redevelopment District the Project Area 1 Project Plan between the City of Wichita, Kansas and the undersigned (the "Developer"), the Developer requests a reimbursement of Tax Increment Funds and hereby states and certifies as follows to the best of its knowledge:

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

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

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

4. These costs have been incurred and are reasonable TIF Eligible Costs that are reimbursable under the Agreement and are within the TIF Eligible Costs Cap and have not been previously reimbursed.

5. Each item listed on *Schedule 1* hereto is a TIF Eligible Project Cost and was incurred in connection with the construction of the Project after October 14, 2014.

6. These TIF Eligible Costs have been paid by the Developer and are reimbursable under the Agreement.

7. Each item listed on *Schedule 1* has not previously been paid or reimbursed and no part thereof has been included in any other certificate previously filed with the City.

8. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

9. All necessary permits and approvals required for the work for which this certificate relates were issued and were in full force and effect at the time such work was being performed.

10. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.

UNION STATION, LLC

By: _____
Title: _____

Approved this ____ day of _____, 20__

CITY OF WICHITA

By: _____
City Representative

ATTACHMENT I
TO CERTIFICATION OF EXPENDITURES

REQUEST NO. _____ DATED_____

SCHEDULE OF PAYMENTS REQUESTED

Person, firm or corporation to whom payment was made	Amount to be reimbursed	General classification and description of the TIF Eligible Costs to be reimbursed

EXHIBIT G

Land Use Restrictions

1. Adult Book and Video Stores
2. Community Correctional Facilities
3. Half-way Houses
4. Drug or Alcohol Rehabilitation Facilities
5. Used Car Lots
6. Multi-game, Casino-style Gambling Facilities
7. Commercial Billboards

EXHIBIT H

Public Access Area 1 Easement

After recording return to:
Adam Andrus
Adams Jones Law Firm
1635 N. Waterfront Pkwy #200
Wichita, KS 67206

PUBLIC ACCESS AREA 1 EASEMENT

THIS EASEMENT ("**Easement**") made this _____ day of _____, 2015, by and between Union Station, LLC, a Kansas Limited Liability Company ("Grantor"), and the City of Wichita, Kansas ("Grantee"),

1. Easement. Grantor, in consideration of the payment of tax increment proceeds for the Public Access Area Costs (as defined in the separate Development Agreement Regarding Development of Project Area 1 between the parties hereto, dated _____, 2015), does hereby grant and convey unto the Grantee, for the benefit of the public: 1) a perpetual non-exclusive right-of-way and access easement in gross for the purpose of pedestrian and vehicular ingress and egress over, along and through the drives and surface parking lots located upon the real estate legally described in the attached Exhibit A, and, 2) a perpetual non-exclusive right-of-way and access easement in gross for the purpose of pedestrian ingress, egress and transit, over, along and through the drives, surface parking lots, pedestrian walkways and plazas, located upon the real estate legally in the attached Exhibit B (collectively, the "**Easement Area**").

2. Right to Control. Grantor expressly reserves the right to reasonable control over all scheduling, maintenance, use, design, and ownership of the Easement Area, including but not limited to the right to restrict public access during events, maintenance, construction, and pursuant to Kansas liquor laws, and for other purposes consistent with Grantor's and the public's intended use of and access to the Easement Area.

3. Subject to Existing Easements. This Easement is subject to existing easements and restrictions of record.

4. Modification to Allow Improvements. Grantor shall have the right to construct improvements on the Easement Area without requiring amendment to this easement under the following procedures:

a. By the Developer granting to the City the same easement rights to an equal number of square feet from the Project Land acceptable to the City in writing to replace the land removed for the improvements;

b. By mutual agreement between the Grantor and the Grantee; or,

c. By approval of the City Council of the City of Wichita, upon request of the Grantor, if the Grantor and City Representative do not reach mutual agreement on construction of improvements on the Easement Area.

All land upon which improvements are permitted in accordance with this procedure will be deemed as removed from the Easement Area to the extent of the foot print of the improvements.

5. Covenants to Run with Land. The rights and obligations under this Agreement shall run with the land and create equitable servitudes in favor of the real property benefitted; shall bind every person having any fee, leasehold or other interest therein; and shall inure to the benefit of the respective parties and their successors, assigns, heirs and personal representatives.

IN WITNESS WHEREOF: The said Grantor has signed these presents the day and year first above written.

Union Station, LLC

By:_____
Gary L. Oborny, Managing Member

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this _____ day of _____, 2015, before me, the undersigned, a Notary Public, in and for the County and State aforesaid came Gary L. Oborny, as Managing Member of Union Station, LLC, a Kansas Limited Liability Company, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

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

_____
Notary Public

(My Appointment Expires:_____)

Approved as to form:

_____

Sharon L. Dickgrafe, Interim City Attorney
And Director of Law

Exhibit A to Public Access Area 1 Easement

Parcel C: Surrounding Depot Buildings. Pedestrian and Vehicular.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 249.84 feet to the place of beginning; thence S00°05'00"E, 32.00 feet; thence S88°32'37"W, 40.00 feet; thence S00°05'00"E, 212.95 feet; thence N89°56'00"E, 8.00 feet; thence N00°05'00"W, 14.00 feet; thence N89°56'00"E, 62.00 feet; thence S00°05'00"E, 14.00 feet; thence N89°56'00"E, 12.00 feet; thence N00°05'00"W, 146.92 feet; thence N17°22'27"E, 30.00 feet; thence N00°05'00"W, 55.00 feet; thence N13°13'09"W, 37.95 feet; thence N00°05'00"W, 17.00 feet to said north line; thence N89°56'00"E along said north line, 34.40 feet; thence S00°05'00"E, 116.98 feet; thence S17°22'27"W, 25.93 feet; thence S00°05'00"E, 166.98 feet; thence S90°00'00"W, 144.90 feet; thence N00°05'00"W, 235.39 feet; thence N62°08'27"E, 15.54 feet; thence N00°05'00"W, 65.89 feet to said north line; thence N89°56'00"E along said north line, 28.15 feet to the place of beginning, containing 21,815 square feet, more or less, AND

Parcel E: Behind (South) Grand Hotel. Pedestrian and Vehicular.
That part of Lots 1 and 3, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said addition, 125.00 feet to the place of beginning; thence S00°00'00"W along the west line of said Lot 3, 117.72 feet; thence N89°56'00"E, 77.00 feet; thence S00°05'00"E, 3.00 feet; thence N89°56'00"E, 48.00 feet to the east line of said Lot 3; thence S00°00'00"W along said east line, 50.00 feet; thence N89°36'21"W, 123.32 feet; thence S00°00'00"W, 132.00 feet; thence S90°00'00"W, 21.39 feet; thence N00°05'00"W, 166.98 feet; thence N17°22'27"E, 25.93 feet; thence N00°05'00"W, 116.98 feet to said north line; thence N89°56'00"E along said north line, 14.06 feet to the place of beginning, containing 12,148 square feet, more or less.

*Parcels C and E on Exhibit C below.

Exhibit B to Public Access Area 1 Easement

Parcel B: Plaza less Kiosk Area. Pedestrian.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 400.86 feet to the place of beginning; thence N89°56'00"E along said north line, 122.87 feet; thence S00°05'00"E, 65.89 feet; thence S62°08'27"W, 15.54 feet; thence S00°05'00"E, 235.39 feet; thence S90°00'00"W, 25.90 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 18.47 feet; thence N89°56'00"E, 21.00 feet; thence N00°05'00"W, 60.00 feet to the place of beginning, containing 15,557 square feet, more or less.

*Parcel B on Exhibit C below.

Exhibit C to Public Access Area 1 Easement

Exhibit D to Public Access Area 1 Easement

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00’00”W along the east line of said Lot 3, 170.72 feet; thence S89°56’00”W, 125.00 feet; thence S00°00’00”W, 138.00 feet; thence S90°00’00”W, 192.20 feet; thence N00°05’00”W, 32.23 feet; thence N89°55’00”E, 11.00 feet; thence N00°05’00”W, 28.00 feet; thence S89°55’00”W, 11.00 feet; thence N00°05’00”W, 169.79 feet; thence S89°56’00”W, 104.22 feet; thence N00°05’00”W, 78.47 feet to the north line of said addition; thence N89°56’00”E along said north line, 421.86 feet to the place of beginning.

EXHIBIT I

Final Plans and Specifications

(To be incorporated herein upon completion and approval by the City)

EXHIBIT J

City Infrastructure Policy

(see attached)

When the Final Record drawings are submitted, the City Engineer's Inspector will perform a field check of all visible items.

Project Completion

Upon completion of a field check, the City Engineer will issue either a Certificate of Acceptance or a Defect Notice. Once the City Engineer has been notified that defects have been corrected, another field check will be performed. Warranties shall begin on the date the City issues the Certificate of Acceptance.

Contractor Responsibilities

Bonds

Bonds are filed by the Contractor on the 11th floor of the County Courthouse with City of Wichita Bond Forms.

The Performance and Maintenance Bond is required for 100% of the cost of the improvements in public right-of-way or easements, through and including the water vault, if applicable. The Performance Bond guarantees to the City the performance of the work as provided in the plans and specifications. The Maintenance provision is limited to 15% of the cost of the improvements. The Maintenance Bond guarantees to the City the correction of any defect on material or workmanship, latent in character, and not discernible at the time of final acceptance, and guarantees against any damage to such improvements by reason of settling of the ground base or foundation thereof.

The Statutory Bond is required for 100% of the cost of the improvement in public right-of-way or easements, through and including the water vault, if applicable. This bond guarantees to the State of Kansas the payment of all materials, labor, machinery, and damage to property or persons. This bond must be filed with the Clerk of the District Court in the Sedgwick County Courthouse ($36.00 filing fee made out to *Clerk of the District Court*) and the original receipt must be submitted to the City Engineer. KSA 60-1111 should be referenced somewhere on the bond.

Notification

The Contractor shall notify the Consultant Engineer and all property owners and/or tenants within 500 feet of the furthest extents of the project at least ten (10) working days prior to construction. Contractor shall notify affected property owners of any disruption of service at least 2 days in advance.

Water Taps

All "wet" taps on Public Mains shall be completed by Public Works & Utilities staff. No tap on the City main will be made until final plans have been approved and all bonding requirements are met. The current Fee Schedule is available on the City's website in the Water Utilities, Customer Service section.

Construction

The Contractor must have a signed set of plans on site during construction. Fire protection lines must be installed by a licensed Fire Sprinkler Contractor.

Street Cut Permits

For private construction projects that require cutting a street, curb, drive approach, or sidewalk, the Contractor will need to get a Street Cut Permit. The pavement will need to be replaced by the City's Contractor. Contact Linda Firsching at 268-4418 for Street Cut Permits and unit prices for pavement replacement.

Contacts:

Central Inspection Site Plans Examiner:
Paul Hays 268-4663

Tap Fees/Approved Materials:
Bryan Smith 268-4555

Water Line Plan Review:
Tim Davidson 268-4455

Sanitary/Drainage/Paving Plan Review:
Julianne Kallman 268-4236

Stormwater Management:
Scott Lindebak 268-4498
Tim Davidson 268-4498

Bonding Requirements/Field Inspections:
Tom Mason 268-4574

Street Cut Permits:
Linda Firsching 268-4418

Engineering's FTP Site Administrator:
Andy Smith 268-4275

Fire Department – Cpt. Schowalter 268-4441
Fire Department – Chief Bob Thompson 268-4441

www.wichita.gov
May 2011

Prepared and Printed by:
Department of Public Works & Utilities
Engineering Division

CITY OF WICHITA

Construction of Infrastructure Improvements By Private Contract

Water
•
Sanitary Sewer
•
Stormwater/Drainage
•
Paving

Construction of Infrastructure Improvements by Private Contract

Overview

This information applies to all infrastructure improvements constructed under private contract in public easement, public right-of-way, and/or private property including water lines, stormwater/drainage systems, sanitary sewer, and paving improvements.

Prior to commencement of construction, the following must be submitted to and approved by the City Engineer:

- Engineered plans
- Plan Review Fee
- Recorded easements
- Electronic .dwg and .pdf files of signed, approved plans for sanitary, drainage and paving projects.
- Electronic .dwg and .pdf files and mylars of signed, approved plans for water projects
- Bonds (Statutory & Performance and Maintenance)

At the completion of construction, the following must be submitted to the City Engineer:

- Final Record Plans in pdf format and mylars for the water projects.
- Inspection Logs
- Test Documentation
- TV Tapes and/or Water Quality Test
- Valve and Fire Hydrant manufacturers and models, and pipe certifications.

Owner/Developer Responsibilities

The Owner is responsible for hiring a Consultant Engineer and a Contractor, and responsible for seeing that the Engineer and Contractor fulfill the requirements of this policy.

Consultant Responsibilities

Engineered Plans

The Consultant Engineer needs to furnish complete plans to the City. All plans need to be certified by a professional engineer licensed in the state of Kansas. Final water plans need to be on 22"x36" Mylar for approval signatures. Final Sanitary and Drainage plans can be on media chosen by the Consultant for approval signatures. Electronic .dwg and .pdf files need to be submitted along with the final plans. The Signature Block, standard detail sheets, and sample sets of plans are available in AutoCAD format on Engineering's FTP site in the Private Project Templates and Details sections at ftp://detailusr:D244$7yf@files3.cyberlynk.net

Water Line Projects:

Plans are required for any line publicly maintained, any domestic service line over 2", and any fire protection line, from the tap to the building and/or furthest hydrant. Profile is required for the entire fire protection line, but only for the public portion of a domestic service line. Upon approval, 2 11x17 signed copies and the signed mylar plans shall be submitted to the City Engineer's Office along with .dwg and .pdf files.

Sanitary Sewer Projects:

Plans (plan and profile) are required for any publicly maintained line, and any private sewer line 8" or larger. Upon approval, .dwg and .pdf files need to be submitted to the City Engineer's office. The .pdf files should be made from the signed set of plans.

Stormwater/Drainage Projects:

Developments that require stormwater management facilities, detention ponds, downstream channel protection, water quality treatment, and/or storm sewers shall submit a (ppd) plan. For information on the plan submittal process and possible permit application see the city web site at http://www.wichita.gov/stormwater under the Regulatory & Permit Documents tab. Stormwater permit applications shall be submitted with all supporting documentation to the Public Works & Utilities Engineering Division, with reviews taking place by both Stormwater Management & Engineering staff. Submit two sets of half-scale plans.

Plans (plan and profile) are required for publicly maintained line, as well as private line 12" or larger. Upon approval, electronic copies of all stormwater permit application documentation and .dwg and .pdf files of the plans shall be submitted to the City Engineer's office.

Paving Projects:

Plans are required for any street that is to be publicly maintained. Upon approval, .dwg and .pdf files need to be submitted to the City Engineer's office. The .pdf files should be made from the signed set of plans.

Plan Review Fee

This fee reimburses the City for the costs of plan review, recording, final inspection, and administration of the project. The Consultant Engineer submits it to the City Engineer's Office along with preliminary plans. It is based on the project size according to the following fee schedule:

Water, Sewer and Drainage	
100' or less	$150
100' – 500'	$250
500' – 1000'	$350
Over 1000'	$0.35 per foot
Paving	
100' or less	$250
100' – 500'	$375
500' – 1000'	$500
Over 1000'	$0.50 per foot

Checks should be made out to *City of Wichita* and submitted to the City Engineer along with preliminary plans.

Recorded Easements

Easements are to be recorded at Sedgwick County Courthouse and the original is to be provided to the City Engineer prior to approval of the Final Plans.

Inspection Arrangements

All Private Projects must be inspected and certified by a professional engineering firm, with a professional engineer licensed in the state of Kansas, with the exception of water line taps and valve operations, which are performed by City staff. Inspection arrangements are the responsibility of the Consultant Engineer, but it may be delegated to the Contractor to make arrangements. Inspection services shall be performed in accordance with the City of Wichita Standard Specifications available on the City's website in the Public Works section.

Testing

The Consultant Engineer (or the designated inspecting firm) shall perform all inspection and testing services (including televising and air testing of sewers) and shall document and provide the City satisfactory documentation of all such activities.

Final Record Drawings

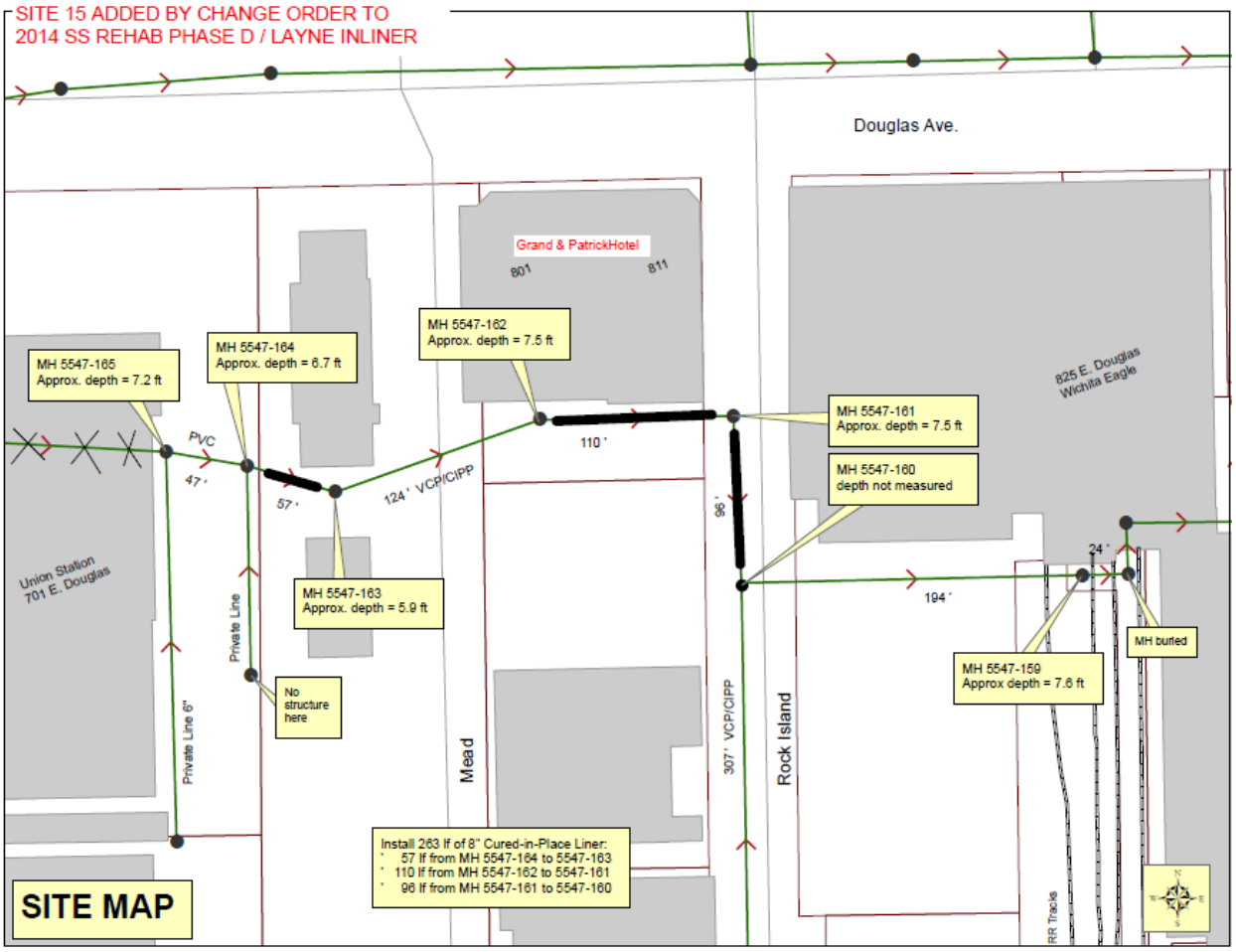
The Consultant Engineer (or the designated inspecting firm) shall document construction with Final Record drawings. Final Record (as-built) information may be added to the original .pdf or signed Mylar plans. Add information including the size, make, and reading of all meters. One .pdf (plus mylar for water) of Final Record plans shall be submitted along with the following number of 11x17 copies:

Water Lines	1
Sanitary Sewers	3
Stormwater/Drainage	1
Paving	1

EXHIBIT K

Related Utility Improvements

The City has completed the Related Utility Improvements necessary for the Project consisting of certain sanitary sewer improvements as shown below:



City of Wichita

Union Station Redevelopment District

Project Area 1 Plan

February 5, 2015

Prepared by City of Wichita
Office of Urban Development

I N D E X

1. Comprehensive Financial Feasibility Study

2. Redevelopment District Plan

3. Map and Legal Description of Property to be Redeveloped

4. Relocation Assistance Plan

5. Description of Proposed Redevelopment Project

6. Development Agreement

7. City Council Ordinances and Resolutions

8. Metropolitan Area Planning Commission Resolution

Comprehensive Financial Feasibility Study

Comprehensive Financing Feasibility Study for the

Union Station Project

within the

Union Station Redevelopment District

City of Wichita, Kansas

Project Area 1

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Overview

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

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

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

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

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

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

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

4. The Relocation Assistance Plan (if applicable).

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

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

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

Pursuant to all the provisions of the Act, The City of Wichita has, by Ordinance No. 49-839 dated October 14, 2014, found a portion of the City was a blighted and that redevelopment of the area is necessary to promote the general and economic welfare of the City. With adoption of Ordinance No. 49-839, the City established and designated such area as the Union Station Redevelopment District ("the District"). The District boundaries are shown in Exhibit A.

The City is currently considering the adoption of a Project Area 1 Plan for the proposed Union Station Project (**"the Project"**) within the designated Union Station Redevelopment District. Plans for the Union Station Development include a mixed use development of approximately 10 acres generally located southwest of Douglas and Washington, east of the elevated railroad, involving retail, restaurants, and office space with historic renovation of the existing buildings on the campus, as well as new construction infill. Plans also include construction of a public parking structure with over 400 spaces.

The Developer will finance the project, including various public infrastructure improvements. The City will provide public funding in the form of pay-as-you-go financing to reimburse the Developer for TIF eligible expenditures.

General Description of Tax Increment

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

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

Sales tax increment financing involves the creation of an increment (increase over a base value) in the local sales taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, a base value of local sales tax collections within the district is determined. As new commercial development occurs within the redevelopment district, sales tax collections are expected to increase above the base value. Pursuant to city law governing the use of local sales tax revenue, the City does not intend to collect incremental sales tax revenues as "sales tax increment".

Tax increment funds may only be used to pay for certain statutorily-defined eligible project costs, including principal and interest on debt issued, in whole or in part, to finance eligible project costs within the redevelopment district. Such financing includes notes, special obligation bonds, full faith and credit tax increment bonds, other debt instruments and pay-as-you-go. The City intends to finance eligible improvements within the district through pay-as-you-go financing. The City will reimburse the developer, through pay-as-you-go financing, for TIF eligible expenses paid for by the developer.

Project Description

Project Area 1 generally consists of the North end of the Union Station campus and is depicted on the map in Exhibit I. The Project will include site and building improvements to the Grand Hotel, the Rock Island Depot Building, the Rock Island Baggage Building and the Plaza in front of the Main Terminal Building. Site improvements consist of planters, site lighting, landscaping, irrigation, street furniture amenities. Utility upgrades will also be realized.

Projected Revenues (Benefits)
Captured Assessed Value

It is the City's intention to use the property tax increment generated by the District to reimburse the developer, on a pay-as-you-go basis, for TIF eligible expenses paid for and financed by the developer as well as acquire a public access easement within the Project. The property tax increment is based on the District's increase in assessed value over its Original Assessed Value. The increase in value is expected to be recorded in January in the years 2015-2019 and is referred to as the Captured Assessed Value.

The Total Assessed Value for the Project Area 1 as of January 1, 2020 is estimated to be $1,445,858. The Base Assessed Value of the Project Area 1 as of January 2014 is $148,493 according to data provided by the City of Wichita Geographic Information Service Office. Therefore, the Captured Assessed Value of the Project Area 1 as of January 1, 2020 is estimated to be $1,297,365.

For the purpose of this analysis, it is assumed that the Total Assessed Value of the Project Area 1 will increase during the 20 year project period at the annual inflation rate of 2%.

Property Tax Rates

In order to determine the amount of tax increment generated by the District in any given year, the Captured Assessed Value of the District must be multiplied by the sum of the tax rates for all applicable taxing jurisdictions for that year. For taxes levied in 2014 and payable in 2014, the applicable rate is 95.865 mills as shown below. The State of Kansas rate of 1.5 mills and the statewide education levy of 20 mills are not applicable to TIF and have been omitted from the following total:

Jurisdiction	Mill Rate (2014)
City of Wichita	32.652
Sedgwick County	29.478
USD No. 259	33.735
TIF-Applicable Mill Rate	95.865

Projected Property Tax Increment and Other Project Revenue

The projected property tax increment for Project Area 1 generated by the District is shown in column 8 of Exhibit III. Such projections are based on captured assessed values derived from captured assessed valuations and tax rates as previously discussed. It is assumed that Project construction will begin in 2015 and be completed before the end of 2019, and therefor achieve full valuation by January 1, 2020. It is estimated that in 2020 the property tax increment will be $124,372.

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

Projected Expenditures (Costs)

A projected budget for the eligible TIF project costs in the Project Area 1 is listed below.

	Phase 1
Public Improvements	$1,223,354
City Access Easement	432,580
	$1,655,934

A project budget for the developer project costs and estimated increased assessed value within Project Area 1 is listed below:

Estimated Increased Assessed Value as of January 1, 2020 for Project Area 1: $1,297,365.

Estimated TIF revenues to be generated within Project Area 1 over the 20 year period: $2,475,990.

All eligible project costs will be financed by the Developer and reimbursed by the City, as TIF revenue is available. TIF revenues will be used to reimburse the Developer for eligible TIF related project costs, to the extent TIF funds are available. No bonds will be issued with this project.

Conclusions

Kansas Statutes require that the Comprehensive Financial Feasibility Study must demonstrate that the benefits derived from the Project will exceed the costs, and that the income therefrom will be sufficient to pay for all eligible project costs. As previously discussed, Exhibit III illustrates the projections of tax increment through the year 2033. TIF revenue will be used on a pay-as-you-go basis, no TIF bonds will be used to finance eligible expenses.

All TIF eligible expenses will be financed by the Developer and reimbursed on a pay-as-you-go basis, as revenue becomes available. As such, this report demonstrates that the revenues (benefits) of the District and Project Area exceed the expenditures (costs). It is contemplated that any revenues that exceed the projected revenues can be used to pay unreimbursed TIF eligible expenditures.

EXHIBIT I

SCHEDULE I

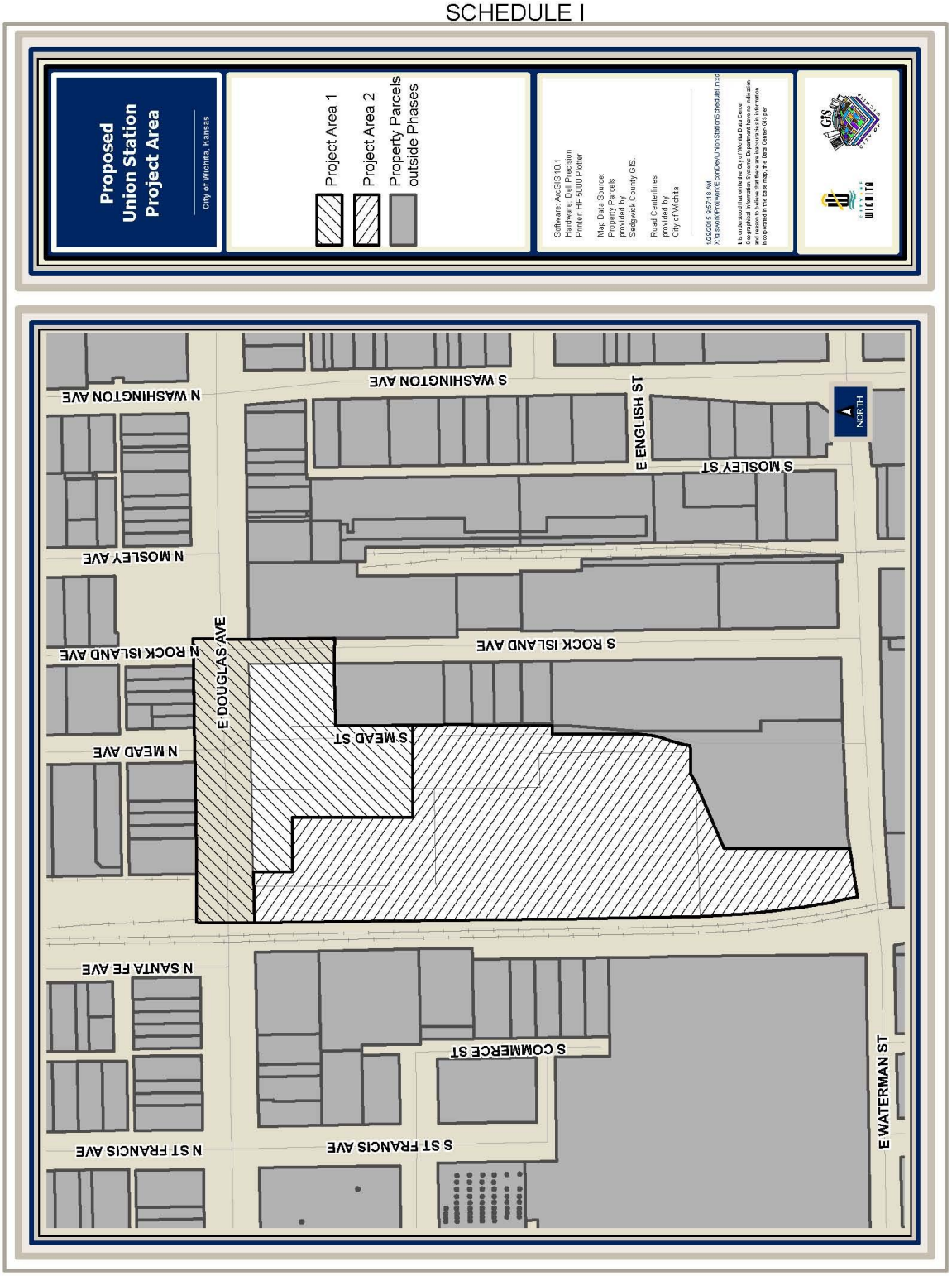

EXHIBIT II

Assumptions Report

City of Wichita, Kansas
Union Station Redevelopment District
Union Station Project

Description of Project Area	See Map (Exhibit I)	
	Total	Project Area 1
Original Appraised Value (1/1/14)	$1,500,000	$593,970
Original Assessed Value (1/1/14)	375,000	$148,493
2020 Appraised Value (1/1/20)	$46,064,600	$5,783,431
2020 Assessed Value (1/1/20)	$11,516,150	$1,445,858

2014 Mill Rates	Total	TIF Applicable
City of Wichita	32.652	32.652
Sedgwick County	29.478	29.478
USD No. 259	53.735	33.735
State of Kansas	1.500	NA
Total	117.365	95.865

Property Value Inflation Rate	2%

EXHIBIT III

City of Wichita, Kansas
Union Station Redevelopment District
Union Station Project

Levy & Appraised Year	Year Taxes Distributed	Total Assessed Value	Original Assessed Value	Captured Assessed Value	Net Increment	Mill Rate	Projected Tax Increment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2015	2016	$ -	$ 148,493	$ -	$ -	95.865	
2016	2017	$ 528,377	$ 148,493	$ 379,885	$ 379,885	95.865	$ 36,417.64
2017	2018	$ 857,305	$ 148,493	$ 708,813	$ 708,813	95.865	$ 67,950.31
2018	2019	$ 1,061,498	$ 148,493	$ 913,006	$ 913,006	95.865	$ 87,525.31
2019	2020	$ 1,198,247	$ 148,493	$ 1,049,754	$ 1,049,754	95.865	$ 100,634.67
2020	2021	$ 1,445,858	$ 148,493	$ 1,297,365	$ 1,297,365	95.865	$ 124,371.93
2021	2022	$ 1,474,775	$ 148,493	$ 1,326,282	$ 1,326,282	95.865	$ 127,144.07
2022	2023	$ 1,504,270	$ 148,493	$ 1,355,778	$ 1,355,778	95.865	$ 129,971.66
2023	2024	$ 1,534,356	$ 148,493	$ 1,385,863	$ 1,385,863	95.865	$ 132,855.80
2024	2025	$ 1,565,043	$ 148,493	$ 1,416,551	$ 1,416,551	95.865	$ 135,797.62
2025	2026	$ 1,596,344	$ 148,493	$ 1,447,851	$ 1,447,851	95.865	$ 138,798.27
2026	2027	$ 1,628,271	$ 148,493	$ 1,479,778	$ 1,479,778	95.865	$ 141,858.94
2027	2028	$ 1,660,836	$ 148,493	$ 1,512,344	$ 1,512,344	95.865	$ 144,980.83
2028	2029	$ 1,694,053	$ 148,493	$ 1,545,560	$ 1,545,560	95.865	$ 148,165.15
2029	2030	$ 1,727,934	$ 148,493	$ 1,579,441	$ 1,579,441	95.865	$ 151,413.16
2030	2031	$ 1,762,493	$ 148,493	$ 1,614,000	$ 1,614,000	95.865	$ 154,726.12
2031	2032	$ 1,797,742	$ 148,493	$ 1,649,250	$ 1,649,250	95.865	$ 158,105.35
2032	2033	$ 1,833,697	$ 148,493	$ 1,685,205	$ 1,685,205	95.865	$ 161,552.16
2033	2034	$ 1,870,371	$ 148,493	$ 1,721,879	$ 1,721,879	95.865	$ 165,067.91
2034	2035	$ 1,907,779	$ 148,493	$ 1,759,286	$ 1,759,286	95.865	$ 168,653.97
							$ 2,475,990.88

District Plan

Gilmore & Bell, P.C.
02/03/2015

(Published in ***The Wichita Eagle*** on February 13, 2015)

ORDINANCE NO. 49-938

AN ORDINANCE AMENDING ORDINANCE NO. 49-839 OF THE CITY OF WICHITA, KANSAS, RELATING TO A NON-SUBSTANTIAL CHANGE TO THE DISTRICT PLAN FOR THE UNION STATION REDEVELOPMENT DISTRICT.

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

WHEREAS, by Ordinance No. 49-839, passed October 14, 2014, and published October 17, 2014, the City of Wichita, Kansas (the "City") established a redevelopment district pursuant to K.S.A. 12-1770 *et seq*., as amended, known as the Union Station Redevelopment District (the "District"), and

WHEREAS, the District Plan for the District provided that redevelopment of the District could be in several project areas within the District as set forth in separate redevelopment plans to be approved by the governing body of the City pursuant to K.S.A. 12-1771; and

WHEREAS, the City's Governing Body desires to designate two project areas within the District to foster development of the District Plan; and

WHEREAS, ***Exhibit C*** to Ordinance No. 49-839 needs to be amended to include ***Schedule 1*** thereto which shall be a map generally describing the redevelopment project areas; and

WHEREAS, such insertion does not constitute an addition to the area of the District or a substantial change to the District Plan as to require public notice and hearing described in K.S.A. 12-1771(e).

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

Section 1. Amendment. ***Exhibit C*** to Ordinance No. 49-839 is hereby amended by the insertion of ***Schedule 1*** thereto in the form attached hereto and incorporated herein by reference.

Section 2. **Ratification**. The rest and remainder of Ordinance No. 49-839 is hereby ratified and confirmed.

Section 3. Effective Date. This Ordinance shall take effect and be in full force after its adoption by the City and publication once in the official newspaper of the City.

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PASSED by the City Council of the City on February 10, 2015 and **SIGNED** by the Mayor.

(SEAL)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Sharon L. Dickgrafe, Interim Director of
Law and City Attorney

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CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on February 10, 2015; that the record of the final vote on its passage is found on page [____] of journal [____]; and that the Ordinance or a summary thereof was published in ***The Wichita Eagle*** on February 13, 2015, and that the Ordinance has not been modified, amended or repealed and is in full force and effect as of this date..

DATED: February 13, 2015.

_____
Karen Sublett, City Clerk

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JLN\600809.70376\ORDINANCE AMENDING DISTRICT PLAN

(Signature Page to Ordinance Certificate)

EXHIBIT C

REVISED DISTRICT PLAN FOR THE REDEVELOPMENT OF THE UNION STATION REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING

SECTION 1: PURPOSE

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

SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

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

SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES

The property within the proposed district includes all property generally bounded by the railroad right of way on the west, the north right of way line of Douglas Avenue on the north, the east right of way line of Rock Island from Douglas to the south property line of 801 E. Douglas and the east property line of 725 E. Douglas on the east, and the south property line of 801 E. Doulas and south property line of lot 2 of Union Station Addition, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The legal description of the proposed district is attached hereto and incorporated herein as Attachment 1.

SECTION 4: BUILDINGS AND FACILITIES

The district is located within Project Downtown and is further identified as a catalyst site for redevelopment. The buildings are part of the 10 acre Union Station complex along the rail corridor. A majority of the buildings were constructed prior to 1950 and are vacant. Design and layout of the buildings creates an economic obsolescence based on current uses.

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

SECTION 5: REDEVELOPMENT AND PROJECT AREAS

It is anticipated that all property within the redevelopment district will be designated as one or more "project areas" under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally call for a full remodel and update of the five existing structures and development of two additional commercial structures for a total of almost 275,000 square feet of retail, restaurant, and office space. It is further anticipated that the project will include construction of a public parking structure. ***A map generally describing the various project areas is attached hereto as Schedule 1.***

Tax increment financing may be used to pay for eligible costs, on a pay-as-you-go basis, for land acquisition and site preparation including utility relocations, public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used for construction of any buildings owned or leased to a private, nongovernmental entity, except for a multilevel parking facility.

SECTION 6: CONCLUSION

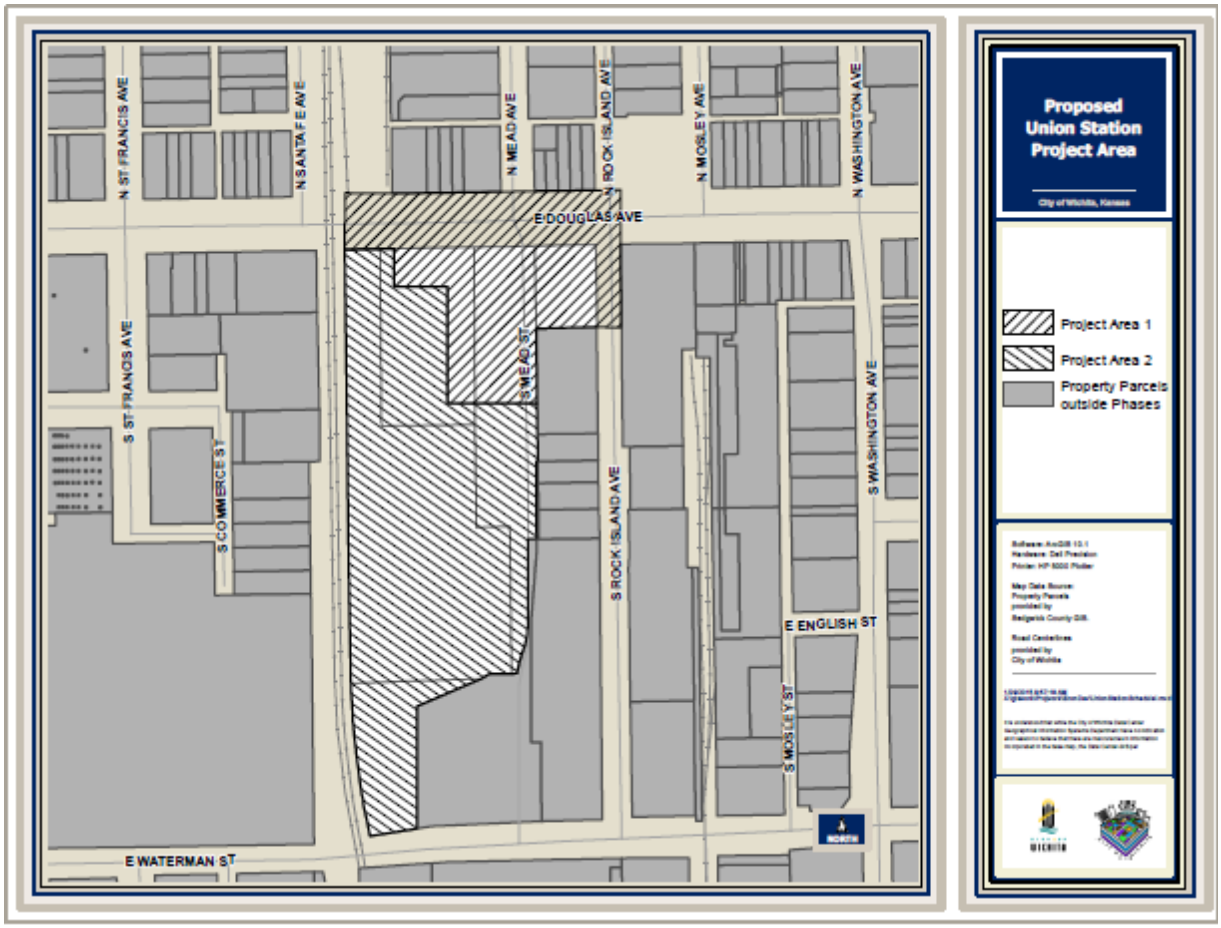
After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of one or more redevelopment project plans in accordance with the Act. The project plans will identify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

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

Map and Legal Description of Property to be Redeveloped

SCHEDULE I

MAP GENERALLY DEPICTING PROJECT AREAS



BOUNDARY DESCRIPTION OF THE
UNION STATION REDEVELOPMENT DISTRICT AND PROJECT AREA 1

Redevelopment District

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northwest corner of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas; thence N0°05'00"W along the extended west line of said Lot 1, 114.00 feet to the North Right of way of Douglas Avenue; thence N89°56'00"E along said north right of way, 580.61 feet to the East Right of Way of Rock Island; thence S00°00'00"W, along said east Right of Way, 114.00 feet to the South Right of Way of Douglas Avenue; thence continuing S00°00'00"W, along said east Right of Way, 170.72 feet; thence S89°56'00"W, 185.00 feet; thence S00°00'00"W, 276.30 feet; thence S89°56'W, 3.22 feet; thence S00°02'21"E, 162.89 feet; thence S89°52'30"W, 17.79 feet; thence S00°00'00"W, 174.09 feet to a point of curvature of a curve to the right, said curve having a radius of 165.00 feet and an arc length of 58.13 feet; chord bearing S10°05'32"W, 57.83 feet; thence along said curve, 58.13 feet to a point of reverse curve of a curve to the left, said curve having a radius of 260.00 feet and an arc length of 49.94 feet; thence along said curve, 49.94 feet; thence S89°22'00"W, 57.02 feet; thence S68°20'30"W, 171.05 feet; thence S00°00'00"W, 253.92 feet; thence S83°50'48"W, 101.63 feet; thence N09°45'00"W, 36.96 feet; to a point of curvature of a curve to the right, said curve having a radius of 1883.87 feet and an arc length of 317.84 feet; chord bearing N04°55'00"W, 317.46 feet; thence along said curve, 317.84 feet to a point of tangency; thence N0°05'00"W, 864.61 feet to the point of beginning.

Project Area 1

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00'00"W along the east line of said Lot 3, 170.72 feet; thence S89°56'00"W, 125.00 feet; thence S00°00'00"W, 138.00 feet; thence S90°00'00"W, 192.20 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 78.47 feet to the north line of said addition; thence N89°56'00"E along said north line, 421.86 feet to the place of beginning, along with the adjoining right-of-way of Douglas Avenue and Rock Island Avenue.

Public Access Easement Area – Portion located in Project Area
Parcel B: Plaza less Kiosk Area. Pedestrian.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence

S89°56’00”W along the north line of said addition, 400.86 feet to the place of beginning; thence N89°56’00”E along said north line, 122.87 feet; thence S00°05’00”E, 65.89 feet; thence S62°08’27”W, 15.54 feet; thence S00°05’00”E, 235.39 feet; thence S90°00’00”W, 25.90 feet; thence N00°05’00”W, 32.23 feet; thence N89°55’00”E, 11.00 feet; thence N00°05’00”W, 28.00 feet; thence S89°55’00”W, 11.00 feet; thence N00°05’00”W, 169.79 feet; thence S89°56’00”W, 104.22 feet; thence N00°05’00”W, 18.47 feet; thence N89°56’00”E, 21.00 feet; thence N00°05’00”W, 60.00 feet to the place of beginning, containing 15,557 square feet, more or less.

Parcel C: Surrounding Depot Buildings. Pedestrian and Vehicular.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56’00”W along the north line of said addition, 249.84 feet to the place of beginning; thence S00°05’00”E, 32.00 feet; thence S88°32’37”W, 40.00 feet; thence S00°05’00”E, 212.95 feet; thence N89°56’00”E, 8.00 feet; thence N00°05’00”W, 14.00 feet; thence N89°56’00”E, 62.00 feet; thence S00°05’00”E, 14.00 feet; thence N89°56’00”E, 12.00 feet; thence N00°05’00”W, 146.92 feet; thence N17°22’27”E, 30.00 feet; thence N00°05’00”W, 55.00 feet; thence N13°13’09”W, 37.95 feet; thence N00°05’00”W, 17.00 feet to said north line; thence N89°56’00”E along said north line, 34.40 feet; thence S00°05’00”E, 116.98 feet; thence S17°22’27”W, 25.93 feet; thence S00°05’00”E, 166.98 feet; thence S90°00’00”W, 144.90 feet; thence N00°05’00”W, 235.39 feet; thence N62°08’27”E, 15.54 feet; thence N00°05’00”W, 65.89 feet to said north line; thence N89°56’00”E along said north line, 28.15 feet to the place of beginning, containing 21,815 square feet, more or less, AND

Parcel E: Behind (South) Grand Hotel. Pedestrian and Vehicular.
That part of Lots 1 and 3, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56’00”W along the north line of said addition, 125.00 feet to the place of beginning; thence S00°00’00”W along the west line of said Lot 3, 117.72 feet; thence N89°56’00”E, 77.00 feet; thence S00°05’00”E, 3.00 feet; thence N89°56’00”E, 48.00 feet to the east line of said Lot 3; thence S00°00’00”W along said east line, 50.00 feet; thence N89°36’21”W, 123.32 feet; thence S00°00’00”W, 132.00 feet; thence S90°00’00”W, 21.39 feet; thence N00°05’00”W, 166.98 feet; thence N17°22’27”E, 25.93 feet; thence N00°05’00”W, 116.98 feet to said north line; thence N89°56’00”E along said north line, 14.06 feet to the place of beginning, containing 12,148 square feet, more or less.

City Minor Street Privilege Area
That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S89°56’00”W along the north line of said Lot 3 and extended, 139.06 feet; thence N00°39’46”E, 10.10 feet; thence N48°19’32”E, 7.06 feet to a point of curvature of a curve to the right, said curve having a radius of 12.00 feet and an arc length of 8.73 feet; thence easterly along said curve 8.73 feet to a point of tangency; thence S89°58’54”E, 93.97 feet; thence

N01°15’08”E, 4.01 feet to a point of curvature of a curve to the right, said curve having a radius of 6.00 feet and an arc length of 9.19 feet; thence easterly along said curve 9.19 feet to a point of tangency; thence N88°58’49”E, 28.96 feet to a point of curvature of a curve to the right, said curve having a radius of 21.50 feet and an arc length of 33.85 feet; thence southeasterly along said curve 33.85 feet to a point of tangency; thence S00°49’04”E, 137.59 feet; thence S20°19’28”W, 49.36 feet; thence N56°53’51”W, 11.55 feet to the east line of said Lot 3; thence N00°00’00”E along said east line, 170.72 feet to the place of beginning; TOGETHER WITH that part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56’00”W along the north line of said Lot 3 and extended, 173.47 feet to the place of beginning; thence continuing S89°56’00”W along the north line of said addition, 248.39 feet; thence N00°05’00”W, 16.10 feet; thence N89°52’40”E, 230.00 feet to a point of curvature of a curve to the right, said curve having a radius of 18.50 feet and an arc length of 26.90 feet; thence southeasterly along said curve 26.90 feet to the place of beginning.

Project Area 2

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00’00”W along the east line of said Lot 3, 170.72 feet; thence S89°56’00”W, 125.00 feet; thence S00°00’00”W, 138.00 feet to the place of beginning; thence continuing S00°00’00”W, 138.30 feet; thence S89°56’00”W, 3.22 feet; thence S00°02’21”E, 162.89 feet; thence S89°52’30”W, 17.79 feet; thence S00°00’00”W, 174.09 feet to a point of curvature of a curve to the right, said curve having a radius of 165.00 feet and an arc length of 58.11 feet; thence southerly along said curve, 58.11 feet to a point of reverse curvature of a curve to the left, said curve having a radius of 260.00 feet and an arc length of 49.96 feet; thence southerly along said curve 49.96 feet; thence S89°22’00”W, 57.02 feet; thence S68°20’30”W, 171.05 feet; thence S00°00’00”W, 253.92 feet to a point on the south line of Lot 2 in said addition; thence S83°50’48”W along said south line, 101.63 feet to the southwest corner of said Lot 2; thence N09°45’00”W along the west line of said Lot 2, 36.96 feet to a point of curvature of a curve to the right, said curve having a radius of 1883.87 feet and an arc length of 317.84 feet; thence northerly along said curve, being the west line of said addition, 317.84 feet to a point of tangency; thence N00°05”00”W along said west line, 864.61 feet to the northwest corner of said addition; thence N89°56’00”E along the north line of said addition, 98.58 feet; thence S00°05’00”E, 339.43 feet; thence N89°56’41”W, 66.19 feet; thence S00°05’00”E, 392.53 feet; thence N89°55’00”E, 145.82 feet; thence S00°01’41”E, 0.47 feet; thence N89°58’19”E, 24.59 feet; thence N00°05’00”W, 369.01 feet; thence N89°55’00”E, 2.00 feet; thence N00°05’00”W, 17.00 feet; thence S89°55’00”W, 2.00 feet; thence N00°05’00”W, 37.77 feet; thence N90°00’00”E, 192.20 feet to the place of beginning.

Relocation Assistance Plan

RELOCATION ASSISTANCE PLAN

(K.S.A. 12-1777)

Assistance for the relocation of persons, families or businesses from property acquired by the City of Wichita in conjunction with the Union Station Redevelopment Project is not required. No persons or families residing in the Union Station Redevelopment District will be displaced as a result of the proposed redevelopment project. All businesses displaced by the Project have been relocated as part of the compensation paid to the businesses as part of the acquisition of real property.

Description of Union Station Project

Union Station Redevelopment District

DESCRIPTION OF REDEVELOPMENT DISTRICT
AND
PROJECT AREA 1

By Ordinance No. 49-839, passed October 14, 2014, and published October 17, 2014, the City of Wichita, Kansas (the "City") established a redevelopment district pursuant to K.S.A. 12-1770 *et seq*., as amended, known as the Union Station Redevelopment District (the "District"), and approved a District Plan. The District Plan was amended by Ordinance No. 49-____, passed on February ___, 2015 and published on February ___, 2015.

The Union Station Redevelopment District includes approximately 10 acres southwest of Douglas and Washington. The area consists of the Union Station Depot and surrounding buildings in the complex southwest of Douglas and Washington, East of the elevated railroad tracks downtown. The property is currently owned by Union Station LLC, the Developer.

Overall plans for development and site improvements.

Plans for development of the of the District include mixed-use development of retail, restaurants and office space, redevelopment of existing buildings on the complex, including the Union Station main terminal through historic renovation, and potentially two planned new buildings on the campus. A multi-level parking garage with over 400 spaces is also planned for the south end of the campus. Planned site improvements include resurfacing parking areas and providing public areas with brick paving and additional details similar to nearby Old Town. The City will purchase a public access easement to provide pedestrian access area and access for mobility through portions of the Union Station campus.

Project Plan. The developer intends to redevelop the District with two or more project plans. Only the Project Area 1 Plan is presented for approval and consists of the following.

Project Area 1 Boundary Description

Project Area 1 is located on the North end of the Union Station campus. It includes that portion of the campus starting at the intersection of Douglas Avenue and Rock Island Avenue, then south approximately 193' along the centerline of Rock Island to the adjacent property line, then west approximately 150' to east property line along Mead Street, then south approximately 130', then west to the face of the Terminal

Building, then north along the face of said building to the north east corner of the building, then west to the upper track retaining wall, then north approximately 15' into the ROW at Douglas Avenue, then east to point 15' north of beginning, then south to point of beginning.

The proposed improvements within Project Area 1 are as follows:

Grand Hotel Improvements

Site improvements will include new sidewalk pavers and concrete along Douglas Avenue, a new drive-thru along the east façade, re-paving and new sidewalk on the south, and new sidewalk and pavers along Mead Street. These areas will also include new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof, restored and coated exterior masonry, new HVAC, and window replacement at all existing openings. Utility laterals and life-safety improvements will include sanitary sewer, water, electrical, and data and communication upgrades, and full fire protection (sprinklered). New construction improvements will include canopies at the north and south facades, and new entrances at the south façade. The existing west canopy will be refurbished. All interiors will be new mixed use finishes and will include an elevator.

Rock Island Passenger Depot Building Improvements

Site improvements will include new planters and sidewalk pavers along Douglas Avenue, a new drive-thru with new planters and sidewalk pavers along the east façade, re-paving and new sidewalk pavers on the south, and new planters, sidewalk, and pavers along the west (private) drive. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. The trash screen and utility pit/screen at the south end will be reconfigured and rebuilt. The existing screen fence at the southwest corner will be eliminated. Open-type fencing will define new outdoor dining areas along the entire west and north sides. Building improvements will include a new roof (faux historic slate shingles), restored and rebuilt masonry, new HVAC, and all window openings will be refurbished. Utility lateral improvements will include sanitary sewer, water, electrical, and data and communication upgrades. The interior will be new restaurant finishes, fixtures, furniture, and equipment on both floors.

Rock Island Baggage Depot Building Improvements

Site improvements will include new planters and sidewalk pavers along the east and west facades, and new sidewalk/pavers at the north and south facades. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof (faux historic slate shingles) and restored and rebuilt masonry.

Plaza Improvements

These plaza improvements include the Project Area 1 area to the immediate east of the Terminal building, wrapping around and inclusive of the frontage along Douglas Avenue. This entire area will receive new hard-scape surfaces consisting of a combination of pavers divided by concrete "ribbons", and new concrete sidewalks. New planters, site lighting, landscaping, irrigation, and street furniture amenities will be included. New construction consisting of steps and planters directly in front of the terminal, plus a glass canopy for food service tenants along the west retaining wall will be included.

City Minor Street Privilege

Some of the site improvements described above lie inside city right-of-way which adjoins the Project Area 1 on Douglas Street and Rock Island. The City will grant a minor street privilege the developer to permit the access, construction, and maintenance of these site improvements.

Public Access Easement

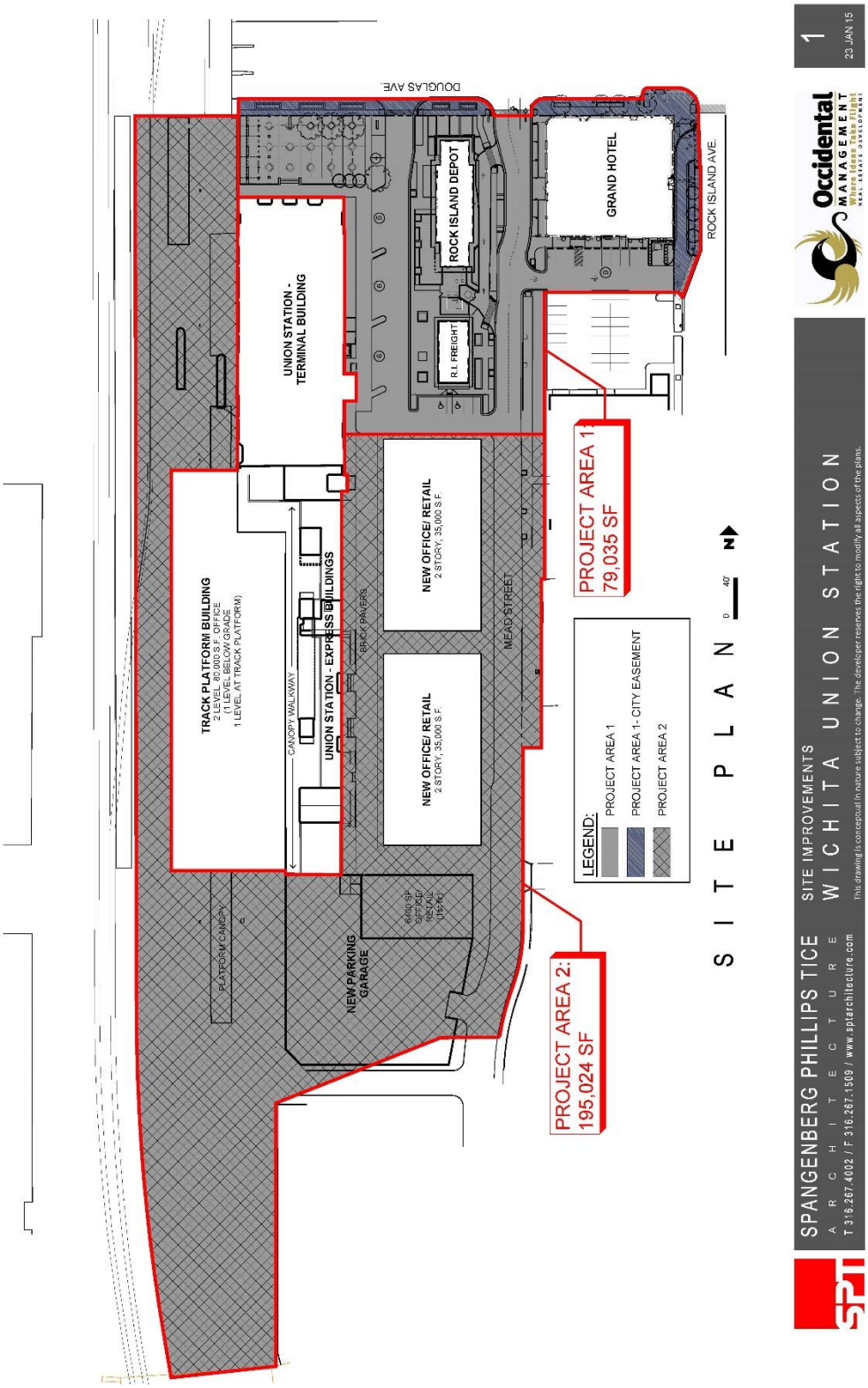
The developer will grant a Public Access Easement to the City for vehicular and pedestrian access as provided in the Public Access Easement in the form required by the development agreement.

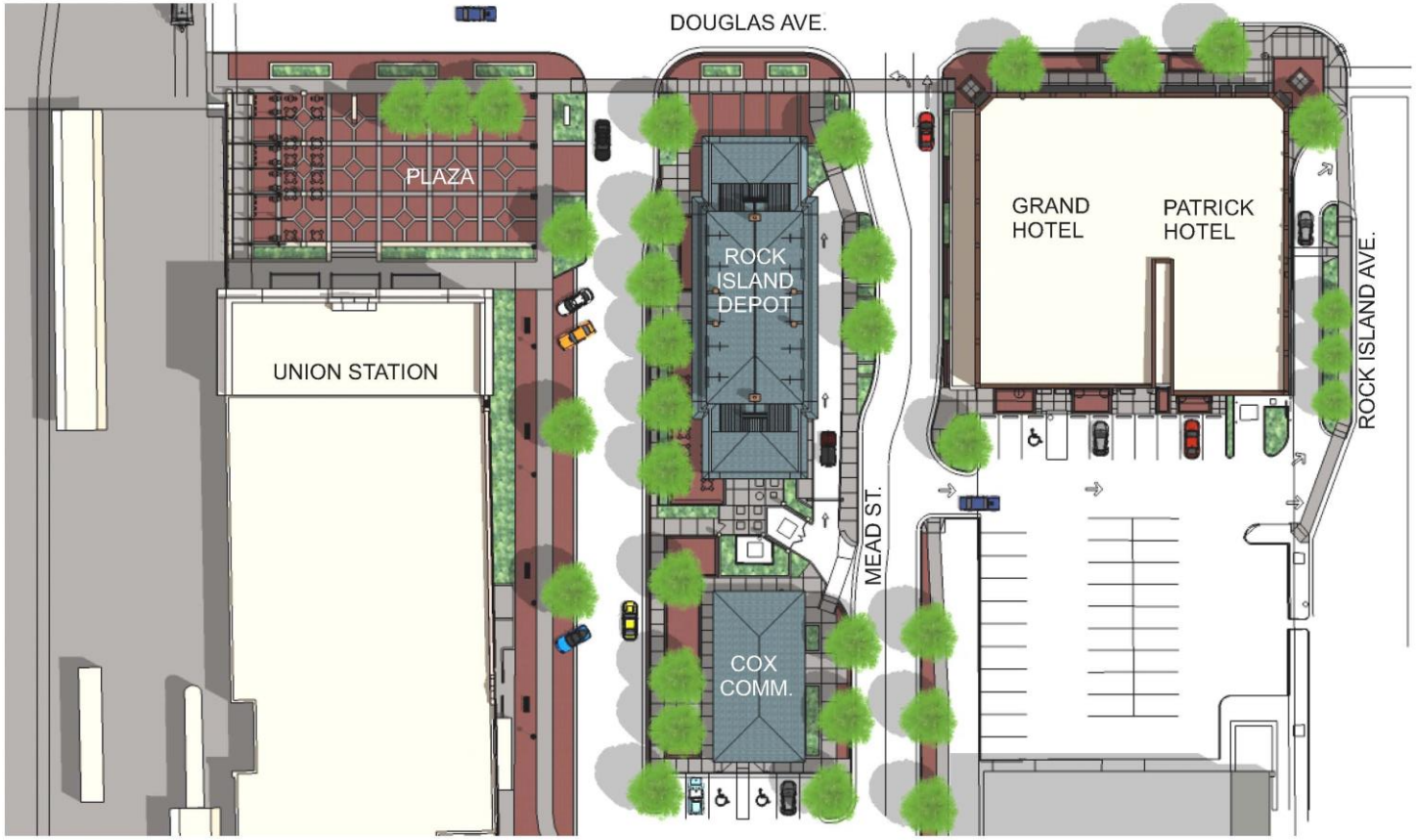
USE OF TAX INCREMENT FINANCING

The City of Wichita has undertaken the legal steps necessary to establish a redevelopment district pursuant to state laws (K.S.A. 12-1770 *et seq*.) in order to use tax increment financing ("TIF") to reimburse the costs of TIF eligible improvements on a pay-as-you-go basis. Upon adoption of this Project Area 1 Project Plan, the City will have established its authority under state law to reimburse the improvements and financing costs from the incremental increase in property taxes resulting from the redevelopment of Project Area 1. The TIF-reimbursed improvements consist of the following:

- **Public improvements** – The Developer will undertake the construction of the infrastructure improvements at an estimated cost of $1,223,354
- **City Acquired Public Access Easement** – (portion in Project Area 1) $ 432,580
- **Total TIF**-funded costs –for Project Area 1 Plan $1,655,934

EXHIBIT A
SITE PLAN AND PROJECT RENDERINGS





PHASE 1 SITE PLAN

SPANGENBERG PHILLIPS TICE ARCHITECTURE

WICHITA UNION STATION

Occidental MANAGEMENT Where Ideas Take Flight REAL ESTATE DEVELOPMENT

Aug 18, 2014

AERIAL VIEW OF PLAZA

SPT SPANGENBERG PHILLIPS TICE ARCHITECTURE

WICHITA UNION STATION

Occidental MANAGEMENT Where Ideas Take Flight REAL ESTATE DEVELOPMENT

Aug 18, 2014

Development Agreement

Draft: 2-4-15

DEVELOPMENT AGREEMENT

REGARDING DEVELOPMENT

OF

PROJECT AREA 1

UNION STATION REDEVELOPMENT DISTRICT

BETWEEN

CITY OF WICHITA, KANSAS

AND

UNION STATION, LLC

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J City Infrastructure Policy
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DEVELOPMENT AGREEMENT
PROJECT AREA 1-UNION STATION REDEVELOPMENT DISTRICT

THIS AGREEMENT is made effective as of March __, 2015, between the **City of Wichita**, a municipal corporation organized under the laws of the State of Kansas (the **"City"**), and **Union Station, LLC**, a Kansas limited liability company (**"Developer"**), for development of a portion of the area known as Union Station, more particularly described below.

Summary

This Agreement summarizes the Developer's plans for renovation of the Project Area 1 of the Union Station Redevelopment District. Project Area 1 generally consists of the North end of the Union Station Redevelopment District and is depicted on the map in Exhibit E. The Project will include site and building improvements to the Grand Hotel, the Rock Island Depot Building, the Rock Island Baggage Building and the Plaza in front of the Main Terminal Building. Site improvements consist of planters, site lighting, landscaping, irrigation, street furniture amenities. Utility upgrades will also be realized as needed.

The City has agreed to support the Project by establishing the Union Station Redevelopment District which includes the Project Land and by providing pay-as-you-go Tax Increment Financing to fund TIF Eligible Costs pursuant to the Union Station Project Area 1 Plan dated February 5, 2015 (the **"Project Plan"**), and to finance and construct certain related utility improvements as described herein.

Background and Recitals

The following Background and Recitals contain merely an overview of the Project and are not intended to fully describe the obligations of the City and Developer. The specific terms and obligations are more fully set forth in the Agreement itself.

(i) Developer will develop and construct the Project according to the Development Plan, the Project Plan and the terms of this Agreement.

(ii) The Developer will be reimbursed TIF Eligible Costs through pay-as-you-go tax increment financing.

(iii) Developer will own the Project Land, including the Project Buildings and the other improvements made thereon, subject to the Public Access Area 1 Easement and the City Minor Street Privilege.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, agree as follows:

Section 1
Definitions and Exhibits

1.1 Certain Definitions. For purposes of this Agreement, each of the following terms, when used with an initial capital letter, shall have the following meaning:

"Affiliate" means any person, entity or group of persons or entities which controls a Party, which a Party controls or which is under common control with a Party. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise. Affiliate shall

include any legal entity of which (i) at least 51% of the voting interest is controlled by one of the Parties or by Gary Oborny or (ii) at least 51% of the ownership interest is controlled by one of the Parties or by Gary Oborny.

"**Agreement**" means this Development Agreement.

"Base Year" means the 2014 calendar year.

"**City**" means the City of Wichita, a municipal corporation organized under the laws of the State of Kansas, and whenever this Agreement requires "approval of the City" or words of similar intent, such approval must come from the City Council, or the City Representative as provided herein.

"**City Council**" means the City Council of the City of Wichita.

"City Minor Street Privilege" means the right of access, construction, and maintenance of site improvements in the City Minor Street Privilege Area in accordance with Chapter 10.08 of the Code of the City of Wichita.

"City Minor Street Privilege Area" means the area as legally described on Exhibit E.

"**City Representative**" means the City Manager of the City or his or her designee. The City Representative shall have full power and authority to implement the decisions of the City Council and to act on behalf of the City in the exercise of its rights and responsibilities under this Agreement. Developer may rely on the decisions and direction of the City Representative made pursuant to this Agreement as the directions of the City.

"**Completed**" or "**Completion**" means, with respect to the Project when: (a) the Project Architect certifies in writing on a form prescribed by the American Institute of Architects to the City and Developer that the construction of the Project or a phase of the Project is substantially completed in accordance with the Development Plan and the Project Plan to permit use of the Project for the purposes for which it was intended, and (b) a conditional or final occupancy permit has been issued, which date may precede the full completion of all punch-list items, and nonessential landscaping and similar design and development functions.

"**Contractors**" means the General Contractor and all other contractors, subcontractors, suppliers, persons, or entities that are engaged for construction or to provide labor, materials, supplies, or services of any kind in regard to the Project.

"**Developer**" means Union Station, LLC, a Kansas limited liability company (or its Affiliate with the approval of the City Representative).

"**Developer Improvement Contribution**" means the equity funds and Loan proceeds that Developer makes available to develop and construct the Project.

"**Development Budget**" means an estimated budget or budgets, including modifications of the budget(s), for the total cost of development and construction of the Project, including design, development, financing, construction, furnishing, fixturing, landscaping, hardscaping, equipping and pre-opening, as approved by the City and attached as Exhibit B.

"**Development Concept**" means the Development Concept attached as Exhibit D.

"**Development Plan**" means the Site Plan, Development Schedule, and Development Budget for the Project as approved by the City and Developer at the time of execution of this Agreement and as the same are amended as provided by this Agreement.

"**Development Schedule**" means the projected development schedule for the Project attached as Exhibit C.

"District" means the redevelopment district consisting of the Project Land and adjoining property in the Union Station Redevelopment District as created by the City under Ordinance No. 49-839.

"**Force Majeure**" means war, riots, civil commotion, strikes, labor disputes, embargoes, natural disasters, Acts of God or other cause or contingency similarly beyond control of the Party whose performance is affected thereby.

"**General Contractor**" means the general contractor(s) for the Project or phases of the Project, as the case may be, to be selected by Developer.

"Grand Hotel Building" means the property in the City and commonly known by that name and located at 801 - 811 East Douglas and generally depicted on Exhibit A.

"Grand Hotel Improvements" means site improvements that will include new sidewalk pavers and concrete along Douglas Avenue, a new drive-thru along the east façade, re-paving and new sidewalk on the south, and new sidewalk and pavers along Mead Street. These areas will also include new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof, restored and coated exterior masonry, new HVAC, and window replacement at all existing openings. Utility laterals and life-safety improvements will include sanitary sewer, water, electrical, and data and communication upgrades, and full fire protection (sprinklered). New construction improvements will include canopies at the north and south facades, and new entrances at the south façade. The existing west canopy will be refurbished. All interiors will be new mixed use finishes and will include an elevator.

"**Loan**" means a loan or loans to Developer in an amount sufficient to allow Developer to complete the Developer Improvement Contribution whether or not pledging some or all of the Project Land and improvements. All Loans shall be at commercially reasonable rates or better in order for the portion allocable to TIF Eligible Costs to qualify as TIF Eligible Costs.

"**Parties**" means, collectively, the City and Developer; "**Party**" means either of the Parties.

"Plaza Area" means the area to the immediate east of the Terminal Building, wrapping around and inclusive of the frontage along Douglas Avenue as generally shown on Exhibit A.

"Plaza Improvements" means new hard-scape surfaces consisting of a combination of pavers divided by concrete "ribbons", and new concrete sidewalks. New planters, site lighting, landscaping, irrigation, and street furniture amenities will be included. New construction consisting of steps and planters directly in front of the Terminal Building, plus a glass canopy for food service tenants along the west retaining wall will be included.

"**Project**" means the Project Area 1 Project Plan of Developer to make the following improvements: Grand Hotel Improvements; Rock Island Passenger Depot Building Improvements; Rock Island Baggage Depot Building Improvements; and Plaza Improvements. The Project shall not include the Related Utility Improvements which have been financed and constructed by the City.

"**Project Architect**" means the architect for the Project, to be selected by the Developer.

"Project Buildings" means the Rock Island Passenger Depot Building, Rock Island Baggage Depot Building, and Grand Hotel Building.

"**Project Land**" means the real property described on Exhibit E and all improvements thereon, including the tracts or parcels of land upon which the Project will be constructed, together with all rights, privileges, licenses and easements appurtenant to such tracts.

"Public Access Area" means an area as described on Exhibit E and made available by Developer to the public for portions of the Project Land where certain of the public improvements will be located and in which the Developer will maintain control over the maintenance and use, subject to reasonable access by the public.

"Public Access Area Costs" means the costs incurred by Developer in the grant of the Public Access Area 1 Easement to the City in the amount of Four-Hundred Thirty-Two Thousand Five Hundred Eighty Dollars ($432,580).

"Public Access Area 1 Easement" means the easement in the form attached hereto as Exhibit H which will convey the Public Access Area to the City for the benefit of the public.

"**Related Utility Improvements**" means the utility improvements which the City financed and constructed at its cost as described and shown on Exhibit L.

"Rock Island Baggage Depot Building" means the property in the City and commonly known by that name and located at 811 East Douglas and as generally depicted on Exhibit A.

"Rock Island Baggage Depot Building Improvements" means site improvement including new planters and sidewalk pavers along the east and west facades, and new sidewalk/pavers at the north and south facades of the Rock Island Baggage Depot Building. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. Building improvements will include a new roof (faux historic slate shingles) and restored and rebuilt masonry.

"Rock Island Passenger Depot Building" means the property located in the City and commonly known by that name and located at 801 East Douglas and as generally depicted on Exhibit A.

"Rock Island Passenger Depot Building Improvements" means site improvements including new planters and sidewalk pavers along Douglas Avenue, a new drive-thru with new planters and sidewalk pavers along the east façade, re-paving and new sidewalk pavers on the south of the Rock Island Depot Building, and new planters, sidewalk, and pavers along the west (private) drive. These areas will also include all new landscaping, irrigation, site lighting, and street furniture amenities. The trash screen and utility pit/screen at the south end will be reconfigured and rebuilt. The existing screen fence at the southwest corner will be eliminated. Open-type fencing will define new outdoor dining areas along the entire west and north sides. Building improvements will include a new roof (faux historic slate shingles), restored and rebuilt masonry, new HVAC, and all window openings will be refurbished. Utility lateral improvements will include sanitary sewer, water, electrical, and data and communication upgrades. The interior will be new restaurant finishes, fixtures, furniture, and equipment on both floors.

"**Site Plans**" means the drawings, renderings and plans depicting the appearance of the Project attached as Exhibit A.

"**Specialists and Consultants**" means the Project Architect and the Contractors, together with other planning, architectural, engineering, interior design and other specialists and consultants selected by the Developer for the design and construction of the Project.

"Tax Increment" means the difference between the amount of real property taxes collected within the Union Station Redevelopment District and the Base Year property taxes specified for the District in this Agreement, pursuant to K.S.A. 12-1770 et seq.

"Tax Increment Funds" means 100% of the funds actually paid to the City by the Sedgwick County Treasurer as incremental property taxes collected for the Union Station Redevelopment District, pursuant to K.S.A. 12-1770 et seq. No fees will be charged or collected by the City from the Tax Increment Funds.

"Terminal Building" means the property in the City commonly known by that name and located at 701 East Douglas and as generally depicted on Exhibit A.

"Terminal Operations Building" means the property commonly known by that name and adjoined to the south end of the Terminal Building at 701 East Douglas, Wichita, KS, with a legal description given on Exhibit E.

"TIF Act" means K.S.A. 1770 *et seq.*, as amended.

"TIF Eligible Costs" means all Project costs which are eligible for reimbursement under the TIF Act, including but not limited to: Public Access Area Costs, site preparation, utility relocations, multilevel parking facilities, water mains and extensions, plazas, sidewalks, street grading, paving, curbing, guttering, surfacing, street light fixtures, connection and facilities, landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities, related expenses to redevelop and finance the redevelopment, including Loans and fees paid to financial advisors, architects, engineers, attorneys, and accountants.

"**TIF Eligible Costs Cap**" is defined in Section 8.2.

"Union Station Project Fund" means a special fund of the City to pay redevelopment project costs in which the City shall deposit Tax Increment Funds received from the County Treasurer pursuant to K.S.A. 12-1775.

1.2 Other Definitions. In addition to the terms defined in Section 1.1, other terms will have the definitions provided elsewhere in this Agreement.

1.3 Exhibits. The exhibits identified in this Agreement and attached to it, or otherwise identified by the signing or initialing of the Parties, are incorporated by reference and made a part of this Agreement as though they were fully set forth in the text of this Agreement.

Section 2
Project

2.1 Project. Developer shall provide the Developer Improvement Contribution to the planning, development, and construction of the Project, and shall provide or cause all services, equipment, materials, supplies, labor, and every article of any kind necessary or appropriate for the planning, development, and construction of the Project, all in accordance with the Development Plan, the Project Plan and the terms of this Agreement. The Parties acknowledge that the Developer's

responsibilities may be undertaken by Affiliates of the Developer or third parties. Developer shall be an independent contractor for all purposes, and nothing contained in this Agreement nor any actions of the Parties shall be construed to create a partnership, joint venture, or agency relationship between the City and Developer. No one performing work on the Project under the direction of Developer, or under the direction of any of the Contractors, shall be deemed to be an employee of the City for any reason or purpose whatsoever.

2.2 Public Access Area. Prior to the release of any Tax Increment Funds to the Developer in accordance with Section 8, upon Completion of construction of the Project, Developer shall execute and deliver to the City the Public Access Area 1 Easement in the form attached as Exhibit H, which shall make the Public Access Area available to the public, reserving to the Developer the right to retain reasonable control over all scheduling, building, maintenance, use, design and ownership of the Public Access Area. The Public Access Area 1 Easement will be perpetual and recorded by the City in the real estate records of Sedgwick County, Kansas.

The Public Access Area 1 Easement shall also provide that Developer, or current owner of the Project Land, shall have the right to construct improvements on the Public Access Area without requiring amendment to the easement under the following procedures:

a. By the Developer granting to the City the same easement rights to an equal number of square feet from the Project Land acceptable to the City in writing to replace the land removed for the improvements;

b. By mutual agreement between the Developer and the City Representative; or,

c. By the City Council, upon request of the Developer, if the Developer and City Representative do not reach mutual agreement on construction of improvements on the Public Access Area.

All land upon which improvements are permitted in accordance with this procedure will be deemed as removed from the Public Access Area 1 Easement to the extent of the foot print of the improvements.

The Developer shall cause any necessary subordinations of any mortgages or similar documents, so that the Public Access Area 1 Easement is senior to such mortgages or similar documents. The Public Access Area 1 Easement shall include all of the Public Access Area.

2.3 Project Use. Subject to applicable statutory and land requirements, Developer may convert any part of the Project Land into a different use than as approved in the Development Plan or the Project Plan, or sell some or all of the buildings or Project Land at any point in the future, all as provided by this Agreement.

2.4 Conditions Precedent to Developer's Obligations. The Developer's obligation to commence construction of the Project shall be conditioned upon the closing by Developer of a guaranteed Loan to finance the Project, or Loan to finance a phase of the Project upon terms acceptable to Developer. In addition to other cancellation provisions under this Agreement, this Agreement may be cancelled by Developer if Developer is unable to obtain financing and equity on terms acceptable to Developer in its sole discretion sufficient to make the Developer Improvement Contribution.

2.5 Land Use Restrictions. The types of land uses and retailers set forth in Exhibit G hereto are prohibited on the Project Land, unless approved in writing by the City prior to the execution of a letter of intent, lease or prior to the sale of land.

2.6 Design of the Project.

2.6.1 The Developer shall be responsible for the design of the Project, subject to the City's right of review in accordance with this Section and all applicable building codes, laws, and

regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws). The Developer shall provide the City with preliminary plans and specifications for each phase of the Project when they are prepared. The City shall review such plans and specifications to determine whether they are in substantial conformance with applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws), the Development Plan, the Project Plan and this Agreement. The City shall provide the Developer with its approval or reasonable objection to the plans and specifications within fifteen (15) calendar days of the City's receipt of the plans and specifications. In the event the City has reasonable objections to the preliminary plans and specifications, the City shall provide a written notice of such objections detailing the substantial non-conformance of the preliminary plans and specifications with applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws) and this Agreement and its specific demands of modification to the plans and specifications. The City and the Developer shall meet within five (5) business days to discuss any such objections by the City.

2.6.2 Upon approval of the preliminary plans and specifications, the Developer shall:

(a) Prepare final plans and specifications, including detailed drawings, construction plans, and technical specifications to show the character and scope of the work to be performed by contractors for the Project.

(b) Furnish to the City the number of copies of such final plans and specifications as required by the City.

The final plans and specifications shall be attached hereto as Exhibit I upon completion and approval by the City and shall be incorporated herein by reference.

2.6.3 The Parties anticipate that the layout and size of particular buildings and building improvements, as well as the Development Plan itself, will be amended by Developer from time to time to reflect changes in market conditions, economic demands, engineering, and construction review, construction costs and that such changes are within the scope and intent of this Agreement provided that: a) the changes are consistent with the Development Concept, and b) Developer provides City Representative with reasonable notice of the changes. All such changes shall be subject to the submittal of new plans and specifications as provided in Sections 2.6.1 and 2.6.2 above unless waived in writing by the City. To the fullest extent permitted by applicable law and ordinance, the City Representative is authorized to approve minor adjustments to the Development Plan in accordance with the requirements of this Section 2.6.3. Changes to the Project Plan which meet the TIF Act definition of a "substantial change" shall be subject to public notice and hearing as required by the TIF Act.

2.7 Removal of Property from District. City agrees it will not remove any property from the District as provided in K.S.A. 12-1771(g) without the prior written consent of Developer.

2.8 Related Utility Improvements. City, at its sole cost and expense, has constructed and completed the Related Utility Improvements. If it is determined during construction of the Project that utilities need to be repaired, modified or replaced, then Developer and City will work together to determine a solution.

Section 3
Construction Phase

3.1 Conditions Precedent to Construction. The following matters shall be completed before construction begins on any portion or phase of the Project which involves TIF Eligible Costs.

3.1.1 Delivery of Documents. The documents listed below (or copies), as well as any other documents reasonably required prior to commencement of construction, have been delivered to the City Representative. When necessary, Developer shall also procure the requisite filings of such documents with the appropriate officials:

(a) Construction permit and all other permits required before commencement of construction;

(b) Policies or certificate(s) of insurance evidencing that Developer has procured all insurance required by this Agreement;

(c) Satisfactory evidence to City Representative that the General Contractor selected by Developer to construct the Project is a registered contractor in good standing under the laws of Kansas and the laws of its state of its domicile;

(d) The Development Budget;

(e) The Development Plan;

(f) Executed copies of the construction contract between Developer and the General Contractor, and the contract between the Developer and the Project Architect;

(g) Such other documentation including plans and specifications, schematic drawings and renderings of the Project as may reasonably be requested by the City Representative to insure the orderly development of the Project;

(h) Path of schedule for the Project phases; and,

(i) All approvals from the local Historic Preservation Board for the historic buildings provided said buildings are part of a historic preservation project needed for development of the Project phase have been obtained in writing.

3.2 Construction. Developer will cause commencement of construction of the Project to begin upon completion of the conditions in Section 3.1.1, and subject to market conditions, Developer will pursue Completion of construction with due diligence thereafter. During construction of all phases of the Project, Developer agrees to the following conditions and instructions (where applicable, to the respective parts of the Project):

(a) To cause construction of the Project in a workmanlike manner, free of any material defects, in accordance with the final plans and specifications approved by the City, and in accordance with all applicable building codes, laws, and regulations (including the Americans With Disabilities Act, the Kansas Act Against Discrimination, and all environmental laws);

(b) To obtain all utility permits, certificates of occupancy, and all other licenses, permits and easements required for the operation of the Project;

(c) Supervise the timely and efficient performance of the Contractors and the Specialists and Consultants under their respective contracts with Developer to enable them to perform their work in a timely, safe, professional and workmanlike manner.

3.3 Construction in Phases. The Project may be constructed in phases. Construction will begin after closing of the Loan, and is anticipated to begin in the 2nd quarter of 2015 and be completed in fifteen months. Work on a particular building or portion of the Project may be adjusted by the Developer to different phases as construction, development and leasing advance in order to accommodate the orderly progress of this large and complex project.

3.4 Public Infrastructure. Developer shall have the right to perform all engineering, bidding, construction and inspection of the same in coordination with the City for all necessary public infrastructure for the Project. Developer shall comply in all respects with the City's policy set forth in Exhibit J and incorporated herein by reference. All public infrastructure improvements shall be constructed by Developer subject to City's standard review and permitting procedures and pursuant to the provisions of Exhibit J attached hereto and incorporated herein. All contracts and subcontracts for the construction of the public infrastructure improvements shall be competitively bid by Developer and the City shall have access to all such bidding documentation. The Developer shall provide to the City the statutory bonds and performance bonds required by the City for the public infrastructure improvements. All plans and specifications for the public infrastructure improvements shall be approved by the City Engineer.

3.5 Crosswalk. The City shall install at its cost a non-signaled cross walk at the entry between the Rock Island Passenger Depot Building and the Plaza Area. The cross-walk shall be completed before Developer Completes construction of the Project.

3.6 Douglas Avenue Improvements. The City agrees to consult with Developer before making future improvements on Douglas Avenue frontage which abuts the Project Land.

3.7 City Minor Street Privilege. Developer's right of access, construction, and maintenance of site improvements in the City Minor Street Privilege Area, as contemplated by the Project Plan, will be provided for via the procedures for application and approval of minor street privileges in accordance with Chapter 10.08 of the Code of the City of Wichita. Upon proper application, the City shall grant to Developer a City Minor Street Privilege on the City Minor Street Privilege Area for the right of access, construction, and maintenance of site improvements along Douglas Avenue and Rock Island Street as contemplated by the Project Plan and shown on the Site Plan. The terms of the Minor Street Privilege shall be jointly approved by the Developer and City. The Director of Operations and Maintenance shall waive the permit fee for the term of the Project Plan pursuant to City Code Section 10.08.210(c) based upon the determination that the project involves public beautification and improvement of public property for public purposes.

Section 4
Additional Rights and Obligations

4.1 Approvals. Whenever this Agreement requires the consent or approval of the City Representative, the City Representative, in his or her sole discretion, may instead present the question to the City Council for the necessary consent or approval. Notwithstanding the foregoing, the Parties intend that City Council approval shall not be required or necessary for changes in the Development Plan which

do not affect the City's expenditures and are consistent with the Development Concept, unless otherwise required by law.

4.2 Title to Property. Developer shall own the improvements and the Project Land in fee simple, free and clear of all liens and encumbrances, subject only to liens and encumbrances placed thereon by Developer and real estate taxes and special assessments.

4.3 Related Improvements. Developer may construct at Developer's sole cost related improvements, such as landscaping and streetscaping, and the City Representative will coordinate and cooperate with Developer to accommodate those improvements within the Project schedule.

4.4 Development Assistance. The City will provide development assistance to Developer, as needed, to facilitate and expedite the issuance of building permits and compliance with other City-controlled requirements relating to completion of the Project. Developer may apply for applicable waivers of fees as allowed by the City's ordinances.

4.5 Access to Site. The Developer shall be provided access to streets adjacent to the Project Land during periods of demolition and construction in accordance with the Chapter 10.08 of the Code of the City of Wichita.

4.6 Certificate and Release- Gilbert and Mosely. Upon receipt of the proper application by Developer, the City will issue a certificate and release to Developer in regard to the Gilbert and Mosley groundwater contamination in accordance with the customary process for application and issuance of those certificates.

4.7 Certificate of Completion and Non-Default. Upon Completion of the Project, the City Representative shall provide a written Certificate of Completion and Non-Default to the Developer which states that: a) the Project has been Completed as defined by the Development Agreement; b) at the time of Completion to the knowledge of the City and the City Representative there was no uncured default of the Developer under the terms of the Development Agreement; and c) that any subsequent default of Developer in a later project plan in Project Area 2 shall not terminate or modify Developer's right to receive Tax Increment Funds for TIF Eligible Costs from Project Area 1. Provided however, the City Representative shall not be required to issue this Certificate if the City has issued a notice of default which remains uncured as described in Section 10. In that event, the Certificate shall be issued after the default is cured, withdrawn or otherwise resolved.

Section 5
Insurance, Bonding, and Indemnification

5.1 Types of Coverage. Developer shall carry, or cause the General Contractor to carry, the following insurance coverage insuring Developer, General Contractor, and City as specified below through final completion (as defined in the construction contracts):

(a) Special or builder's "all risk" insurance (including theft, vandalism, boiler, and pressure vessel coverage), in an amount reasonably acceptable to the Developer, insuring Developer's interests in each respective phase of the Project and any and all furniture, equipment, supplies and other property owned, leased, held or possessed by Developer n the Project (insurance shall also insure against loss from collapse of any part of the building or other structural failure during construction);

(b) Comprehensive general liability insurance insuring Developer and City against all liability for injury to or death of a person or persons and for damage to property in any way occasioned by or arising out of the activities of Developer, City, and their respective agents, contractors, or employees, in connection with the design and construction of the Project, in the amount of not less than Five Hundred Thousand Dollars ($500,000) or in such other amounts as may be reasonably acceptable to Developer and the City, provided, however, such policies shall not name the City, or insure the City, for an amount of coverage in excess of the City's maximum liability pursuant to the Kansas Tort Claims Act and amendments (and any similar law limiting the liability of the City);

(c) Workers' compensation insurance;

(d) Automobile insurance (if applicable) with per occurrence limits of not less than $500,000, or comparable Hired and Non-owned coverage included in General Liability; and

(e) All other insurance as required by law.

5.2 Policy Requirements. The following general requirements shall apply to all insurance coverage carried by Developer and General Contractor pursuant to Section 5.1:

(a) To the extent available, each policy shall contain a clause whereby the insurer waives all rights of subrogation against General Contractor, Developer, and City, as the case may be;

(b) Subject to the limitations on builder's risk coverage in Section 5.1(a) and on general liability insurance in Section 5.1(b), the City shall be named as its interests appear in all policies obtained by Developer and General Contractor;

(c) Such policies shall be with reputable insurance companies reasonably acceptable to Developer, City, and General Contractor and licensed to do business in Kansas;

(d) Developer shall provide the City Representative with policies or certificates of insurance evidencing such coverage prior to the start of construction;

(e) Within thirty (30) days prior to expiration of coverage, or as soon as practicable, renewal policies or certificates of insurance evidencing renewal and payment of premium shall be provided by Developer to the City Representative; and

(f) The policies must be non-cancelable unless the carrier provides to the City Representative thirty (30) days' prior written notice of cancellation.

5.3 Indemnification. Developer agrees to indemnify, hold harmless, and defend the City, inclusive of members of the City Council, officers, agents, and employees (collectively referred to as the **"City Indemnified Parties"**) from and against all loss, damage, liability, cost or expense including, but not limited to, attorneys' fees and court costs incurred or suffered by or claimed against any of the City Indemnified Parties by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence or willful misconduct of Developer, its officers, directors, agents, or employees.

The City's liability for any claims asserted by any person or entity by reason of injury, death, loss, or damage to any person, property, or business which arises, or is alleged to have arisen, from the negligence of willful misconduct of the City, its officers, directors, agents, or employees, shall be governed by the Kansas Tort Claims Act and other applicable laws of the State of Kansas.

Section 6
Term and Survival

The term of this Agreement shall commence upon the date of this Agreement and, unless terminated sooner as provided in this Agreement, shall end on the date that all of the following have occurred: all TIF Eligible Costs have been paid from the Tax Increment Funds, subject to the requirements and limitations set forth in Section 8, or 20 years after the date the ordinance approving the Project Plan was approved. However, the following provisions of this Agreement shall survive beyond the end of the term to the extent still applicable at the time: all representations and warranties; all agreements of indemnification; limitations on assignment under Section 9.16; and limitations concerning the Cash Basis and Budget Laws.

Section 7
Representations, Warranties, and Guaranties

7.1 City. The City warrants and represents to Developer as follows:

(a) It is a municipal corporation, duly incorporated and validly existing under the laws of the State of Kansas.

(b) It has full power and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the limitations expressed herein or otherwise imposed by law.

(c) The execution and delivery of this Agreement and the other documents contemplated herein will not conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

7.2 Developer. The Developer warrants and represents to City as follows:

(a) It is a limited liability company duly organized, validly existing, and in good standing under the laws of Kansas.

(b) It has the requisite power through its managing member to execute the documents under this Agreement and to consummate the transactions contemplated thereby.

(c) The execution and delivery of this Agreement and the other documents contemplated herein will not conflict with or result in a breach of any of the terms, covenants and provisions of any judgment, order, injunction, decree or ruling of any court or governmental agency, body or authority to which it is subject or of any material provision of any agreement, contract, indenture or instrument to which it is a party or by which it is bound, or constitutes a material breach thereunder.

(d) It is duly authorized and registered to carry on business in Kansas pursuant to the laws of Kansas.

(e) All contracts with Contractors shall warrant that the work performed or material supplied by that Contractor to the Project will be free from any defects in materials and workmanship for

a period of at least one (1) year from the date of Completion, and that such warranty does not restrict or otherwise limit that Contractor's obligation to construct the Project in a workmanlike manner and in accordance with the Development Plan as it pertains to that Contractor's work.

(f) It shall use reasonable care to insure that all Specialists and Consultants selected in connection with the design and construction of the Project shall be highly qualified to do the work they are engaged to perform and Developer shall make reasonable inquiries as to such persons' background, experience and reputation to assure they are well qualified to undertake such work.

Section 8
Tax Increment Funding and Process

8.1 Union Station Project Fund. Pursuant to City Ordinance No. 49-839, as Tax Increment Funds are generated over the life of the District, the City will reimburse Developer for actual TIF Eligible Costs incurred, including but not limited to the Public Access Area Costs, but only to the extent that Tax Increment Funds are generated. The City shall establish a Union Station Project Fund as provided by K.S.A. 12-1775 to deposit Tax Increment Funds received from the District. Those Tax Increment Funds will be paid to Developer for reimbursement of TIF Eligible Costs.

8.2 Payment of TIF Eligible Costs. When the annual Tax Increment Funds have been actually paid to the City by the Sedgwick County Treasurer as incremental property taxes collected for the District pursuant to the TIF Act, and the applicable TIF Eligible Costs are documented to the satisfaction of the City as described in Section 8.3 below, the Tax Increment Funds shall be released to Developer for reimbursement of such TIF Eligible Costs within ten (10) days thereafter. The estimated amount of TIF Eligible Costs which will be reimbursed from Tax Increment Funds is Two Million Four Hundred Seventy-Five Thousand Nine Hundred Dollars ($2,475,990), and Developer shall be allowed reimbursement of all TIF Eligible Costs up to 110% of this amount (the "**TIF Eligible Costs Cap**"). Any amounts in excess of the TIF Eligible Costs Cap shall not be eligible for reimbursement from Tax Increment Funds without the City Representative finding that such excess improved the Project Area in a manner consistent with the Project Plan and such costs are not excessive or unreasonable. Financing and interest costs of that part of a Loan allocable to TIF Eligible Costs, reimbursed to Developer shall not be subject to the TIF Eligible Costs Cap.

8.3 Certification of Expenditure of TIF Eligible Costs. Developer shall submit to the City a Certificate of Expenditures in the form attached as Exhibit F setting forth the amount for which payment is sought and an itemized listing of the TIF Eligible Costs. Each Certificate of Expenditures shall be accompanied by such bills, contracts, invoices and other evidence as the City shall reasonably require to document appropriate payment of a TIF Eligible Cost.

The City shall have twenty (20) days after receipt of the Certificate of Expenditures to review and respond in writing to the Developer. The City shall approve the Certificate of Expenditures and promptly reimburse the Developer as described in Sections 8.1 and 8.2 when: (1) the TIF Eligible Costs sought to be reimbursed are reasonably itemized; and (2) evidence adequately demonstrates that Developer has paid the TIF Eligible Costs for which reimbursement is requested. If the City reasonably disapproves of any item on the Certificate of Expenditures, the City shall notify the Developer in writing of the reason for such disapproval within such twenty (20) day period and release payment for all undisputed TIF Eligible Costs. A Certificate of Expenditures will be deemed approved by the City if the City does not respond within the above mentioned twenty (20) days after submittal.

Section 9
General Provisions

9.1 Governing Law. This Agreement and the legal relations between the Parties shall be governed by, construed and interpreted under the laws of the State of Kansas, and exclusive venue for all disputes and litigation shall be in Wichita, Sedgwick County, Kansas only.

9.2 No Waiver. No failure of a Party to exercise any power given under this Agreement or to insist upon strict compliance of another Party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

9.3 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties not embodied or referenced herein shall be of any force or effect.

9.4 Written Amendments. Any amendment to this Agreement shall not be binding on any of the Parties unless the amendment is in writing, is duly authorized, and is duly executed by the Parties to this Agreement.

9.5 Time of Essence. Time is of the essence of this Agreement.

9.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

9.7 Headings. The headings of the sections and subsections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

9.8 Notices. All notices required to be given under this Agreement shall be delivered in writing and delivered either by (a) hand delivery, and considered delivered upon receipt, (b) telefacsimile, and considered delivered upon completion of transmittal, (c) certified mail, and considered delivered upon signed receipt or refusal to accept notice, or (d) nationally-recognized overnight delivery service, and considered delivered the next business day after the notice is deposited with that service for delivery. For notice purposes, the Parties agree to keep each other informed at all times of their current addresses. For purposes of notices or other written communications, the addresses of the Parties shall be as follows:

(a) If to the City:

City Manager
City Hall, 13th Floor
455 North Main Street
Wichita, Kansas 67202
Fax # (316) 268-4519
and
City Clerk
City Hall, 13th Floor
455 North Main Street
Wichita, Kansas 67202
and
City Attorney
City Hall, 13th Floor

455 North Main Street
Wichita, Kansas 67202
Fax # (316) 268-4335

(b) If to Developer:

Gary Oborny, Managing Member
Union Station, LLC
8111 East 32nd Street North, Suite 101
Wichita, Kansas 67226
Fax # (316) 262-6321

and

Adams Jones Law Firm, P.A.
Attention: Mert Buckley
1635 N. Waterfront Parkway #200
Wichita, KS 67206
Fax # (316) 265-9719

9.9 Electronic Transactions. The transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

9.10 Validity and Severability. It is the intention of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State of Kansas, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

9.11 Licenses and Permits. It shall be the ultimate responsibility of Developer to secure all local licenses and permits required to be obtained by Developer or City with respect to construction, completion and occupancy of the Project, including any necessary building, occupancy, sewer and utility permits. The City shall cooperate with Developer and all Contractors to the extent permitted by law, as needed, to facilitate and expedite the issuance of these licenses and permits.

9.12 Documents. All as-built drawings, plans, specifications, and other documents prepared for the Project pursuant to this Agreement are and shall remain the property of Developer whether or not the Project is Completed.

9.13 Approvals. Whenever the approval or consent of a Party is required in this Agreement, such approval or consent shall not be unreasonably withheld, delayed or conditioned.

9.14 "Including." Whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, the words "including without limitation," and the general words shall be construed in their widest extent, and shall not be

limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

9.15 Binding Effect. Subject to the limitations of Section 9.16, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

9.16 Assignment. Except as provided herein, no Party may assign all or any part of its interest in this Agreement without the prior written consent of the other Party, and any such assignment without such consent shall be void. The City may assign all or part of its interest to a city-established entity without approval of the other Party, but with thirty (30) days prior written notice to Developer so long as such assignee has the legal authority to fulfill the City's obligations under this Agreement and, to the extent that it does not have such authority, the assignment shall continue in effect but the City will remain obligated for such non-assignable or unauthorized obligations. Members of the Developer may pledge their membership interests in the Developer entity to the lender holding the primary Loan on the Project if so required by such lender.

At any time before January 1, 2020, Developer may transfer membership interests to other parties without the consent of the City; provided however, no such transfer may occur unless Gary L. Oborny remains the manager of the Developer and unless Gary L. Oborny or an Affiliate retains at least a 51% ownership interest in the Developer, either personally or through ownership in an entity that is a member of the Developer. Developer may assign this Agreement, in whole or in part, at any time before January 1, 2020; provided however, such an assignment shall not release Developer from any of its obligations originating from this Agreement, unless the assignee agrees to assume in writing the obligations and the City consents to the assignment and assumption.

After January 1, 2020, Developer may assign this Agreement upon notice to the City: a) to an assignee who has been approved by the City as an approved developer in accordance with existing City policy if the Project Plan has not been completed and the approved developer assumes in writing the obligations hereunder or b) to any assignee if the Project Plan is completed or no further work is anticipated on the Project Plan as provided in Section 9.20 and the assignee assumes in writing the obligations hereunder, and in the event of an assignment in compliance with the foregoing a) or b) Developer shall be released from all obligations under this Agreement.

9.17 Brokerage Commissions. Except as noted below, both Parties represent to the other that they have not discussed this Agreement or the subject matter thereof with any real estate broker, agent or salesperson so as to create any legal right in any such broker, agent or salesperson to claim a real estate commission or similar fee with respect to the transactions between the Parties contemplated by this Agreement. Occidental Management, Inc., (Occidental) an entity owned by Oborny, will act as broker and agent for purposes of development, construction, entitlements and leasing for the property owned by Union Station, LLC and shall act as property manager for any leased properties. Occidental Management, Inc. will be entitled to fees and expenses customary in the industry for such services. Both Parties hereby indemnify the other Party against and agree to hold the other harmless from any and all claims, suits, or judgments (including, without limitation, court costs and attorneys' fees incurred in connection with any such claims, suits or judgments) for any real estate commissions or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor and relating to the transactions contemplated by this Agreement.

9.18 Cash Basis and Budget Laws. It is the intent of the Parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101, et seq.) (the "Cash Basis Law") or the Kansas Budget Law (K.S.A. 79-2925) (the "Budget Law"). Therefore, notwithstanding anything to the contrary herein contained, the City's obligations under this Agreement are

to be construed in a manner that assures that the City is at all times not in violation of the Cash Basis Law or the Budget Law.

9.19 Other Agreements. The Parties also covenant to negotiate and execute such additional documents as may be reasonably necessary to provide for the coordinated construction and operation of the Project.

9.20 Force Majeure. If an act of Force Majeure delays the ability of a Party to perform its obligations under this Agreement, the time for performance of the obligation shall be extended by a period of time reasonably necessary after the act of Force Majeure has ended. If an act of Force Majeure so damages the Project that it cannot be Completed within the Development Budget, then Developer may terminate this Agreement by giving written notice to the City, or make such modifications to the Development Plan as are reasonable in light of the Force Majeure event. In any such event, the Parties will pay their own respective costs and expenses incurred, and in the event of termination of the Agreement the Parties will thereafter have no further obligation to Complete construction and development of the Project.

9.21 Effect of Violation of the Terms and Provisions of this Agreement. The City is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement shall run in favor of the City, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Project or the District. The City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

9.22. Agreement Controls. The Parties agree that the Development Plan and Project Plan will be implemented as agreed in this Agreement. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing the Project, the payment of TIF Eligible Costs and all other methods of implementing the Development Plan and the Project Plan. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the Development Plan and the Project Plan and that expand upon the estimated and anticipated sources and uses of funds to implement the Development Plan and Project Plan. Nothing in this Agreement shall be deemed an amendment of the Development Plan or the Project Plan. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

9.23. Required Disclosures. The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

9.24. Tax Implications. The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

9.25. Recordation of Agreement. The Parties agree to execute and deliver an original of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in

the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Sedgwick County, Kansas. This Agreement shall be recorded by the Developer at Developer's sole cost and expense, and proof of recording shall be provided to the City.

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

9.27 Amendment and Termination. In recognition: a) of the size and complexity of the Project, b) that the Developer is financing the Project itself with pay-as-you-go financing and will only receive Tax Increment Funds after, and to the extent that, it improves the value of the Project Land, c) success of the Project depends upon unpredictable timing of tenant leasing of the Project space, and d) Developer has an economic incentive to complete the Project as described in the Development Plan, then, notwithstanding anything else to the contrary in this Agreement, Developer shall have the absolute discretion to delay, postpone or even abandon commencement of the Project without consequence under this Agreement or to its rights to receive Tax Increment Funds or future Tax Increments for eligible improvements made to the District. For purposes of this section, "commencement" of construction means the Developer has incurred hard construction costs of Five Hundred Thousand Dollars ($500,000) on the Project.

In addition to other cancellation provisions under this Agreement, this Agreement may be cancelled by Developer if Developer is unable to obtain financing and equity sufficient to make the Developer Improvement Contribution.

If Developer cancels this Agreement under the terms of this section, then the Parties will pay their own expenses incurred to date, without seeking compensation from each other, and they shall have no further obligations toward each other.

Section 10
Defaults and Remedies

10.1 In the event any party hereto (whether one or more the "**Defaulting Party**"), shall fail to perform any obligation of such party under this Agreement and shall fail to correct the same within thirty (30) days ("**Cure Period**") after written notice thereof from the party claiming such default (whether one or more, the "**Non-Defaulting Party**") specifying such failure, then the Defaulting Party shall be deemed to be in default hereunder this Agreement; provided, in the event the default cannot reasonably be fully cured within such thirty (30) day period of time then no default shall be deemed to exist hereunder so long as the Defaulting Party shall commence curing the same within such thirty (30) day period and shall prosecute the same to completion with reasonable diligence.

10.2 In the event that any party defaults on its obligations hereunder, then the non-defaulting party or parties may seek a temporary restraining order, an injunction, specific performance or any other equitable relief that the non-defaulting party or parties deem(s) reasonably appropriate. The parties hereby acknowledge that an adequate remedy in damages will not be available upon breach of this Agreement, disclaim recovery of incidental or consequential damages, and in lieu thereof agree that the parties shall be entitled to pursue the above equitable remedies as reasonably necessary in order to remedy a breach of this Agreement.

10.3 Notwithstanding anything to the contrary herein so long as the City Representative has issued a Certificate of Completion and Non-Default, a termination of this Agreement shall not terminate or modify Developer's right to receive Tax Increment Funds for TIF Eligible Costs expended to the date of termination for the remainder of the original term of the Project Plan, and any such terms of this

Agreement necessary to continue reimbursements of TIF Eligible Costs incurred to the date of termination of the Agreement shall survive the termination.

CITY OF WICHITA, KANSAS

By: _____
Carl Brewer, Mayor

Attest:_____
Karen Sublett, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

On this _____ day of _____, 2015, before me personally appeared Carl Brewer and Karen Sublett, to me personally known, who being by me duly sworn did say that they are the Mayor and City Clerk of the City of Wichita, Kansas, a Kansas municipal corporation and that said instrument was signed and delivered on behalf of said City and acknowledged to me that he executed the same as the free act and deed of said City.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year

_____
[SEAL] Notary Public

_____
Typed or Printed Name of Notary Public

My Appointment Expires:

_____

Approved as to Form:

_____
Sharon L. Dickgrafe, Interim Director of Law and City Attorney

UNION STATION, LLC

By:_____
Gary L. Oborny, Managing Member

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

On this _____ day of _____, 2015, before me personally appeared Gary L. Oborny, to me personally known, who being by me duly sworn did say that he is the Managing Member of Union Station, LLC, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
[SEAL] Notary Public

_____
Typed or Printed Name of Notary Public

My Appointment Expires:

_____

EXHIBIT A

SITE PLAN

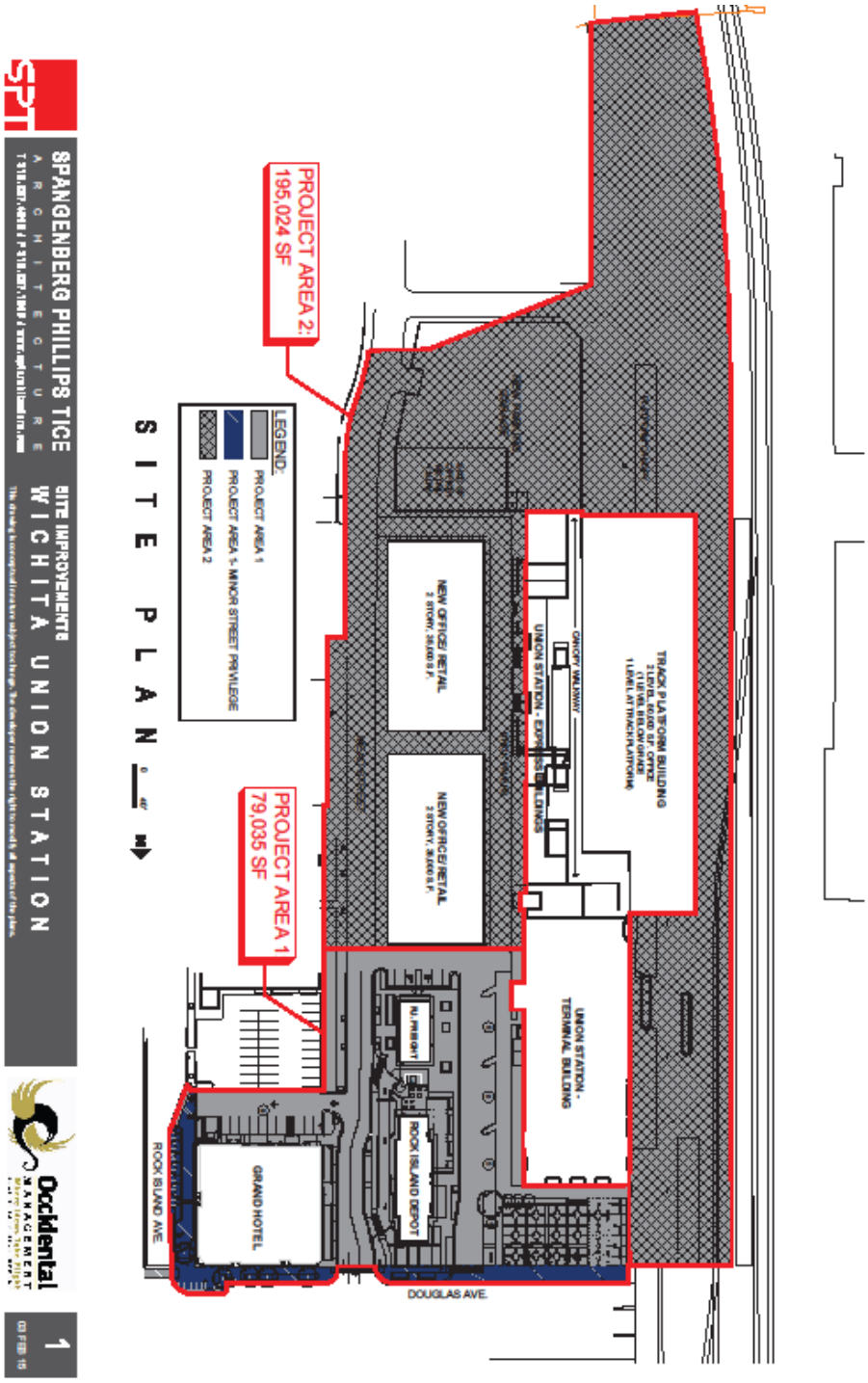


EXHIBIT B

Development Budget

Grand Hotel Building	$ 1,941,428
Rock Island Baggage Depot Building	240,643
Rock Island Passenger Depot Building	899,870
Site Improvements	1,223,354
Tenant Improvement Costs	1,094,585
Landscaping, Signage, Contingency Costs	126,184
Architectural Fees	172,212
Engineering Fees	86,106
Leasing Commission Fees	232,312
Other Soft Costs (financing, legal, holding)	227,686
Total Project 1 Development Budget	$ 6,244,380

EXHIBIT C

Development Schedule

Developer plans to commence construction in March, 2015 and estimates that construction will be completed by the end of October, 2015.

EXHIBIT D

Development Concept

The Project consists of site and building improvements to the Grand Hotel, the Rock Island Depot Building, the Rock Island Baggage Building and the Plaza in front of the Main Terminal Building. Site improvements consist of planters, site lighting, landscaping, irrigation, and street furniture amenities. Utility upgrades will also be realized. The buildings will provide a mix of office and retail use, subject to market conditions and recognizing that uses may be modified as development and leasing progresses.

EXHIBIT E

Legal Descriptions and Map of District
And Project Areas 1 and 2

Redevelopment District

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northwest corner of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas; thence N0°05'00"W along the extended west line of said Lot 1, 114.00 feet to the North Right of way of Douglas Avenue; thence N89°56'00"E along said north right of way, 580.61 feet to the East Right of Way of Rock Island; thence S00°00'00"W, along said east Right of Way, 114.00 feet to the South Right of Way of Douglas Avenue; thence continuing S00°00'00"W, along said east Right of Way, 170.72 feet; thence S89°56'00"W, 185.00 feet; thence S00°00'00"W, 276.30 feet; thence S89°56'W, 3.22 feet; thence S00°02'21"E, 162.89 feet; thence S89°52'30"W, 17.79 feet; thence S00°00'00"W, 174.09 feet to a point of curvature of a curve to the right, said curve having a radius of 165.00 feet and an arc length of 58.13 feet; chord bearing S10°05'32"W, 57.83 feet; thence along said curve, 58.13 feet to a point of reverse curve of a curve to the left, said curve having a radius of 260.00 feet and an arc length of 49.94 feet; thence along said curve, 49.94 feet; thence S89°22'00"W, 57.02 feet; thence S68°20'30"W, 171.05 feet; thence S00°00'00"W, 253.92 feet; thence S83°50'48"W, 101.63 feet; thence N09°45'00"W, 36.96 feet; to a point of curvature of a curve to the right, said curve having a radius of 1883.87 feet and an arc length of 317.84 feet; chord bearing N04°55'00"W, 317.46 feet; thence along said curve, 317.84 feet to a point of tangency; thence N0°05'00"W, 864.61 feet to the point of beginning.

Project Area 1

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00'00"W along the east line of said Lot 3, 170.72 feet; thence S89°56'00"W, 125.00 feet; thence S00°00'00"W, 138.00 feet; thence S90°00'00"W, 192.20 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 78.47 feet to the north line of said addition; thence N89°56'00"E along said north line, 421.86 feet to the place of beginning along with the adjoining right-of-way of Douglas Avenue and Rock Island Avenue.

Public Access Easement Area

Surrounding Depot Buildings. Pedestrian and Vehicular.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 249.84 feet to the place of beginning; thence S00°05'00"E, 32.00 feet; thence S88°32'37"W, 40.00 feet; thence S00°05'00"E, 212.95 feet; thence N89°56'00"E, 8.00 feet; thence N00°05'00"W, 14.00 feet; thence N89°56'00"E, 62.00 feet; thence S00°05'00"E, 14.00 feet; thence N89°56'00"E, 12.00 feet; thence N00°05'00"W, 146.92 feet; thence N17°22'27"E, 30.00 feet; thence N00°05'00"W, 55.00 feet; thence N13°13'09"W, 37.95 feet; thence N00°05'00"W, 17.00 feet to said north line; thence N89°56'00"E along said north line, 34.40 feet; thence S00°05'00"E, 116.98 feet; thence S17°22'27"W, 25.93 feet; thence S00°05'00"E, 166.98 feet; thence S90°00'00"W, 144.90 feet; thence N00°05'00"W, 235.39 feet; thence N62°08'27"E, 15.54 feet; thence N00°05'00"W, 65.89 feet to said north line; thence N89°56'00"E along said north line, 28.15 feet to the place of beginning, containing 21,815 square feet, more or less, AND

Behind (South) Grand Hotel. Pedestrian and Vehicular.

That part of Lots 1 and 3, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said addition, 125.00 feet to the place of beginning; thence S00°00'00"W along the west line of said Lot 3, 117.72 feet; thence N89°56'00"E, 77.00 feet; thence S00°05'00"E, 3.00 feet; thence N89°56'00"E, 48.00 feet to the east line of said Lot 3; thence S00°00'00"W along said east line, 50.00 feet; thence N89°36'21"W, 123.32 feet; thence S00°00'00"W, 132.00 feet; thence S90°00'00"W, 21.39 feet; thence N00°05'00"W, 166.98 feet; thence N17°22'27"E, 25.93 feet; thence N00°05'00"W, 116.98 feet to said north line; thence N89°56'00"E along said north line, 14.06 feet to the place of beginning, containing 12,148 square feet, more or less.

Plaza less Kiosk Area. Pedestrian.

That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 400.86 feet to the place of beginning; thence N89°56'00"E along said north line, 122.87 feet; thence S00°05'00"E, 65.89 feet; thence S62°08'27"W, 15.54 feet; thence S00°05'00"E, 235.39 feet; thence S90°00'00"W, 25.90 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 18.47 feet; thence N89°56'00"E, 21.00 feet; thence N00°05'00"W, 60.00 feet to the place of beginning, containing 15,557 square feet, more or less.

City Minor Street Privilege Area

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S89°56'00"W along the north line of said Lot 3 and extended, 139.06 feet; thence N00°39'46"E, 10.10 feet; thence N48°19'32"E, 7.06 feet to a point of curvature of a curve to the right, said curve having a radius of 12.00 feet and an arc length of 8.73 feet; thence easterly along said curve 8.73 feet to a point of tangency; thence S89°58'54"E, 93.97 feet; thence N01°15'08"E, 4.01 feet to a point of curvature of a curve to the right, said curve having a radius of 6.00 feet and an arc length of 9.19 feet; thence easterly along said curve 9.19 feet to a point of tangency; thence N88°58'49"E, 28.96 feet to a point of curvature of a curve to the right, said curve having a radius of 21.50 feet and an arc length of 33.85 feet; thence southeasterly along said curve 33.85 feet to a point of tangency; thence S00°49'04"E, 137.59 feet; thence S20°19'28"W, 49.36 feet; thence N56°53'51"W, 11.55 feet to the east line of said Lot 3; thence N00°00'00"E along said east line, 170.72 feet to the place of beginning; TOGETHER WITH that part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said Lot 3 and extended, 173.47 feet to the place of beginning; thence continuing S89°56'00"W along the north line of said addition, 248.39 feet; thence N00°05'00"W, 16.10 feet; thence N89°52'40"E, 230.00 feet to a point of curvature of a curve to the right, said curve having a radius of 18.50 feet and an arc length of 26.90 feet; thence southeasterly along said curve 26.90 feet to the place of beginning.

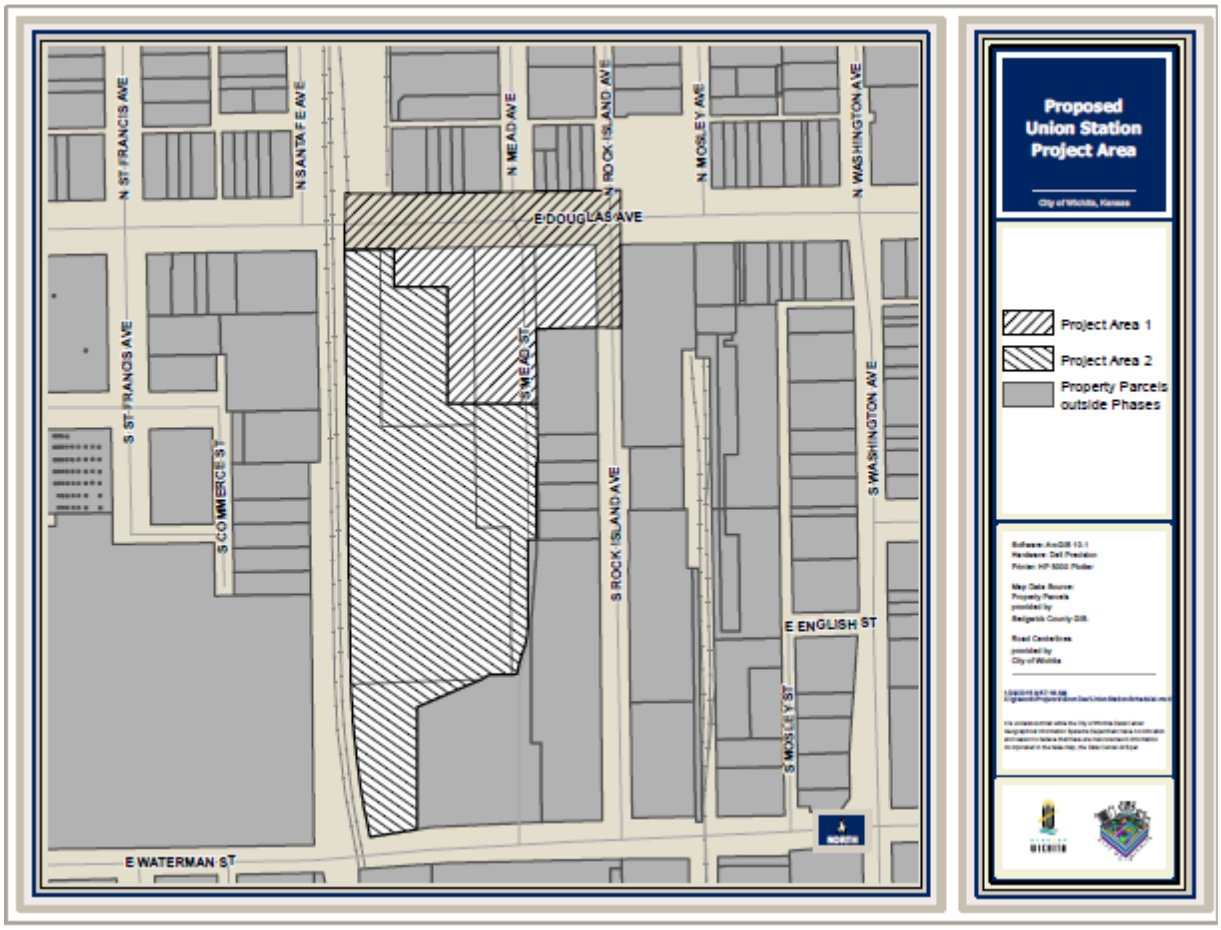

N ST FRANCIS AVE
N SANTA FE AVE
N MEAD AVE
N ROCK ISLAND AVE
N MOSLEY AVE
N WASHINGTON AVE
E DOUGLAS AVE
S ST FRANCIS AVE
S COMMERCE ST
S MEAD ST
S ROCK ISLAND AVE
S WASHINGTON AVE
E ENGLISH ST
S MOSLEY ST
E WATERMAN ST
NORTH
Proposed Union Station Project Area
City of Wichita, Kansas
Project Area 1
Project Area 2
Property Parcels outside Phases

EXHIBIT F

Certification of Expenditures Form

Request No. _____ Date:_____

Pursuant to the Development Agreement effective as of _____, 2015 (the "Agreement") for the Union Station Redevelopment District the Project Area 1 Project Plan between the City of Wichita, Kansas and the undersigned (the "Developer"), the Developer requests a reimbursement of Tax Increment Funds and hereby states and certifies as follows to the best of its knowledge:

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

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

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

4. These costs have been incurred and are reasonable TIF Eligible Costs that are reimbursable under the Agreement and are within the TIF Eligible Costs Cap and have not been previously reimbursed.

5. Each item listed on *Schedule 1* hereto is a TIF Eligible Project Cost and was incurred in connection with the construction of the Project after October 14, 2014.

6. These TIF Eligible Costs have been paid by the Developer and are reimbursable under the Agreement.

7. Each item listed on *Schedule 1* has not previously been paid or reimbursed and no part thereof has been included in any other certificate previously filed with the City.

8. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

9. All necessary permits and approvals required for the work for which this certificate relates were issued and were in full force and effect at the time such work was being performed.

10. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.

UNION STATION, LLC

By: _____
Title: _____

Approved this ____ day of _____, 20__

CITY OF WICHITA

By: _____
City Representative

ATTACHMENT I
TO CERTIFICATION OF EXPENDITURES

REQUEST NO. _____ DATED_____

SCHEDULE OF PAYMENTS REQUESTED

Person, firm or corporation to whom payment was made	Amount to be reimbursed	General classification and description of the TIF Eligible Costs to be reimbursed

EXHIBIT G

Land Use Restrictions

1. Adult Book and Video Stores
2. Community Correctional Facilities
3. Half-way Houses
4. Drug or Alcohol Rehabilitation Facilities
5. Used Car Lots
6. Multi-game, Casino-style Gambling Facilities
7. Commercial Billboards

EXHIBIT H

Public Access Area 1 Easement

After recording return to:
Adam Andrus
Adams Jones Law Firm
1635 N. Waterfront Pkwy #200
Wichita, KS 67206

PUBLIC ACCESS AREA 1 EASEMENT

THIS EASEMENT ("**Easement**") made this _____ day of _____, 2015, by and between Union Station, LLC, a Kansas Limited Liability Company ("Grantor"), and the City of Wichita, Kansas ("Grantee"),

1. Easement. Grantor, in consideration of the payment of tax increment proceeds for the Public Access Area Costs (as defined in the separate Development Agreement Regarding Development of Project Area 1 between the parties hereto, dated _____, 2015), does hereby grant and convey unto the Grantee, for the benefit of the public: 1) a perpetual non-exclusive right-of-way and access easement in gross for the purpose of pedestrian and vehicular ingress and egress over, along and through the drives and surface parking lots located upon the real estate legally described in the attached Exhibit A, and, 2) a perpetual non-exclusive right-of-way and access easement in gross for the purpose of pedestrian ingress, egress and transit, over, along and through the drives, surface parking lots, pedestrian walkways and plazas, located upon the real estate legally in the attached Exhibit B (collectively, the "**Easement Area**").

2. Right to Control. Grantor expressly reserves the right to reasonable control over all scheduling, maintenance, use, design, and ownership of the Easement Area, including but not limited to the right to restrict public access during events, maintenance, construction, and pursuant to Kansas liquor laws, and for other purposes consistent with Grantor's and the public's intended use of and access to the Easement Area.

3. Subject to Existing Easements. This Easement is subject to existing easements and restrictions of record.

4. Modification to Allow Improvements. Grantor shall have the right to construct improvements on the Easement Area without requiring amendment to this easement under the following procedures:

a. By the Developer granting to the City the same easement rights to an equal number of square feet from the Project Land (as shown on Exhibit D attached) acceptable to the City in writing to replace the land removed for the improvements;

b. By mutual agreement between the Grantor and the Grantee; or,

c. By approval of the City Council of the City of Wichita, upon request of the Grantor, if the Grantor and City Representative do not reach mutual agreement on construction of improvements on the Easement Area.

All land upon which improvements are permitted in accordance with this procedure will be deemed as removed from the Easement Area to the extent of the foot print of the improvements.

5. Covenants to Run with Land. The rights and obligations under this Agreement shall run with the land and create equitable servitudes in favor of the real property benefitted; shall bind every person having any fee, leasehold or other interest therein; and shall inure to the benefit of the respective parties and their successors, assigns, heirs and personal representatives.

IN WITNESS WHEREOF: The said Grantor has signed these presents the day and year first above written.

Union Station, LLC

By:_____
Gary L. Oborny, Managing Member

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this _____ day of _____, 2015, before me, the undersigned, a Notary Public, in and for the County and State aforesaid came Gary L. Oborny, as Managing Member of Union Station, LLC, a Kansas Limited Liability Company, personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

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

_____
Notary Public

(My Appointment Expires:_____)

Approved as to form:

_____

Sharon L. Dickgrafe, Interim City Attorney
And Director of Law

Exhibit A to Public Access Area 1 Easement

Parcel C: Surrounding Depot Buildings. Pedestrian and Vehicular.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 249.84 feet to the place of beginning; thence S00°05'00"E, 32.00 feet; thence S88°32'37"W, 40.00 feet; thence S00°05'00"E, 212.95 feet; thence N89°56'00"E, 8.00 feet; thence N00°05'00"W, 14.00 feet; thence N89°56'00"E, 62.00 feet; thence S00°05'00"E, 14.00 feet; thence N89°56'00"E, 12.00 feet; thence N00°05'00"W, 146.92 feet; thence N17°22'27"E, 30.00 feet; thence N00°05'00"W, 55.00 feet; thence N13°13'09"W, 37.95 feet; thence N00°05'00"W, 17.00 feet to said north line; thence N89°56'00"E along said north line, 34.40 feet; thence S00°05'00"E, 116.98 feet; thence S17°22'27"W, 25.93 feet; thence S00°05'00"E, 166.98 feet; thence S90°00'00"W, 144.90 feet; thence N00°05'00"W, 235.39 feet; thence N62°08'27"E, 15.54 feet; thence N00°05'00"W, 65.89 feet to said north line; thence N89°56'00"E along said north line, 28.15 feet to the place of beginning, containing 21,815 square feet, more or less, AND

Parcel E: Behind (South) Grand Hotel. Pedestrian and Vehicular.
That part of Lots 1 and 3, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 3; thence S89°56'00"W along the north line of said addition, 125.00 feet to the place of beginning; thence S00°00'00"W along the west line of said Lot 3, 117.72 feet; thence N89°56'00"E, 77.00 feet; thence S00°05'00"E, 3.00 feet; thence N89°56'00"E, 48.00 feet to the east line of said Lot 3; thence S00°00'00"W along said east line, 50.00 feet; thence N89°36'21"W, 123.32 feet; thence S00°00'00"W, 132.00 feet; thence S90°00'00"W, 21.39 feet; thence N00°05'00"W, 166.98 feet; thence N17°22'27"E, 25.93 feet; thence N00°05'00"W, 116.98 feet to said north line; thence N89°56'00"E along said north line, 14.06 feet to the place of beginning, containing 12,148 square feet, more or less.

*Parcels C and E on Exhibit C below.

Exhibit B to Public Access Area 1 Easement

Parcel B: Plaza less Kiosk Area. Pedestrian.
That part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northeast corner of Lot 3 in said addition; thence S89°56'00"W along the north line of said addition, 400.86 feet to the place of beginning; thence N89°56'00"E along said north line, 122.87 feet; thence S00°05'00"E, 65.89 feet; thence S62°08'27"W, 15.54 feet; thence S00°05'00"E, 235.39 feet; thence S90°00'00"W, 25.90 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 18.47 feet; thence N89°56'00"E, 21.00 feet; thence N00°05'00"W, 60.00 feet to the place of beginning, containing 15,557 square feet, more or less.

*Parcel B on Exhibit C below.

Exhibit C to Public Access Area 1 Easement

Exhibit D to Public Access Area 1 Easement

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00’00”W along the east line of said Lot 3, 170.72 feet; thence S89°56’00”W, 125.00 feet; thence S00°00’00”W, 138.00 feet; thence S90°00’00”W, 192.20 feet; thence N00°05’00”W, 32.23 feet; thence N89°55’00”E, 11.00 feet; thence N00°05’00”W, 28.00 feet; thence S89°55’00”W, 11.00 feet; thence N00°05’00”W, 169.79 feet; thence S89°56’00”W, 104.22 feet; thence N00°05’00”W, 78.47 feet to the north line of said addition; thence N89°56’00”E along said north line, 421.86 feet to the place of beginning.

EXHIBIT I

Final Plans and Specifications

(To be incorporated herein upon completion and approval by the City)

EXHIBIT J

City Infrastructure Policy

(see attached)

When the Final Record drawings are submitted, the City Engineer's Inspector will perform a field check of all visible items.

Project Completion

Upon completion of a field check, the City Engineer will issue either a Certificate of Acceptance or a Defect Notice. Once the City Engineer has been notified that defects have been corrected, another field check will be performed. Warranties shall begin on the date the City issues the Certificate of Acceptance.

Contractor Responsibilities

Bonds

Bonds are filed by the Contractor on the 11th floor of the County Courthouse with City of Wichita Bond Forms.

The Performance and Maintenance Bond is required for 100% of the cost of the improvements in public right-of-way or easements, through and including the water vault, if applicable. The Performance Bond guarantees to the City the performance of the work as provided in the plans and specifications. The Maintenance provision is limited to 15% of the cost of the improvements. The Maintenance Bond guarantees to the City the correction of any defect on material or workmanship, latent in character, and not discernible at the time of final acceptance, and guarantees against any damage to such improvements by reason of settling of the ground base or foundation thereof.

The Statutory Bond is required for 100% of the cost of the improvement in public right-of-way or easements, through and including the water vault, if applicable. This bond guarantees to the State of Kansas the payment of all materials, labor, machinery, and damage to property or persons. This bond must be filed with the Clerk of the District Court in the Sedgwick County Courthouse ($36.00 filing fee made out to *Clerk of the District Court*) and the original receipt must be submitted to the City Engineer. KSA 60-1111 should be referenced somewhere on the bond.

Notification

The Contractor shall notify the Consultant Engineer and all property owners and/or tenants within 500 feet of the furthest extents of the project at least ten (10) working days prior to construction. Contractor shall notify affected property owners of any disruption of service at least 2 days in advance.

Water Taps

All "wet" taps on Public Mains shall be completed by Public Works & Utilities staff. No tap on the City main will be made until final plans have been approved and all bonding requirements are met. The current Fee Schedule is available on the City's website in the Water Utilities, Customer Service section.

Construction

The Contractor must have a signed set of plans on site during construction. Fire protection lines must be installed by a licensed Fire Sprinkler Contractor.

Street Cut Permits

For private construction projects that require cutting a street, curb, drive approach, or sidewalk, the Contractor will need to get a Street Cut Permit. The pavement will need to be replaced by the City's Contractor. Contact Linda Firsching at 268-4418 for Street Cut Permits and unit prices for pavement replacement.

Contacts:

Central Inspection Site Plans Examiner:
Paul Hays 268-4663

Tap Fees/Approved Materials:
Bryan Smith 268-4555

Water Line Plan Review:
Tim Davidson 268-4455

Sanitary/Drainage/Paving Plan Review:
Julianne Kallman 268-4236

Stormwater Management:
Scott Lindebak 268-4498
Tim Davidson 268-4498

Bonding Requirements/Field Inspections:
Tom Mason 268-4574

Street Cut Permits:
Linda Firsching 268-4418

Engineering's FTP Site Administrator:
Andy Smith 268-4275

Fire Department – Cpt. Schowalter 268-4441
Fire Department – Chief Bob Thompson 268-4441

www.wichita.gov
May 2011

Prepared and Printed by:
Department of Public Works & Utilities
Engineering Division

CITY OF WICHITA

Construction of Infrastructure Improvements By Private Contract

Water
•
Sanitary Sewer
•
Stormwater/Drainage
•
Paving

Construction of Infrastructure Improvements by Private Contract

Overview

This information applies to all infrastructure improvements constructed under private contract in public easement, public right-of-way, and/or private property including water lines, stormwater/drainage systems, sanitary sewer, and paving improvements.

Prior to commencement of construction, the following must be submitted to and approved by the City Engineer:

- Engineered plans
- Plan Review Fee
- Recorded easements
- Electronic .dwg and .pdf files of signed, approved plans for sanitary, drainage and paving projects.
- Electronic .dwg and .pdf files and mylars of signed, approved plans for water projects
- Bonds (Statutory & Performance and Maintenance)

At the completion of construction, the following must be submitted to the City Engineer:

- Final Record Plans in pdf format and mylars for the water projects.
- Inspection Logs
- Test Documentation
- TV Tapes and/or Water Quality Test
- Valve and Fire Hydrant manufacturers and models, and pipe certifications.

Owner/Developer Responsibilities

The Owner is responsible for hiring a Consultant Engineer and a Contractor, and responsible for seeing that the Engineer and Contractor fulfill the requirements of this policy.

Consultant Responsibilities

Engineered Plans

The Consultant Engineer needs to furnish complete plans to the City. All plans need to be certified by a professional engineer licensed in the state of Kansas. Final water plans need to be on 22"x36" Mylar for approval signatures. Final Sanitary and Drainage plans can be on media chosen by the Consultant for approval signatures. Electronic .dwg and .pdf files need to be submitted along with the final plans. The Signature Block, standard detail sheets, and sample sets of plans are available in AutoCAD format on Engineering's FTP site in the Private Project Templates and Details sections at ftp://detailusr:D244$7yf@files3.cyberlynk.net

Water Line Projects:

Plans are required for any line publicly maintained, any domestic service line over 2", and any fire protection line, from the tap to the building and/or furthest hydrant. Profile is required for the entire fire protection line, but only for the public portion of a domestic service line. Upon approval, 2 11x17 signed copies and the signed mylar plans shall be submitted to the City Engineer's Office along with .dwg and .pdf files.

Sanitary Sewer Projects:

Plans (plan and profile) are required for any publicly maintained line, and any private sewer line 8" or larger. Upon approval, .dwg and .pdf files need to be submitted to the City Engineer's office. The .pdf files should be made from the signed set of plans.

Stormwater/Drainage Projects:

Developments that require stormwater management facilities, detention ponds, downstream channel protection, water quality treatment, and/or storm sewers shall submit a (ppd) plan. For information on the plan submittal process and possible permit application see the city web site at http://www.wichita.gov/stormwater under the Regulatory & Permit Documents tab. Stormwater permit applications shall be submitted with all supporting documentation to the Public Works & Utilities Engineering Division, with reviews taking place by both Stormwater Management & Engineering staff. Submit two sets of half-scale plans.

Plans (plan and profile) are required for publicly maintained line, as well as private line 12" or larger. Upon approval, electronic copies of all stormwater permit application documentation and .dwg and .pdf files of the plans shall be submitted to the City Engineer's office.

Paving Projects:

Plans are required for any street that is to be publicly maintained. Upon approval, .dwg and .pdf files need to be submitted to the City Engineer's office. The .pdf files should be made from the signed set of plans.

Plan Review Fee

This fee reimburses the City for the costs of plan review, recording, final inspection, and administration of the project. The Consultant Engineer submits it to the City Engineer's Office along with preliminary plans. It is based on the project size according to the following fee schedule:

Water, Sewer and Drainage	
100' or less	$150
100' – 500'	$250
500' – 1000'	$350
Over 1000'	$0.35 per foot
Paving	
100' or less	$250
100' – 500'	$375
500' – 1000'	$500
Over 1000'	$0.50 per foot

Checks should be made out to *City of Wichita* and submitted to the City Engineer along with preliminary plans.

Recorded Easements

Easements are to be recorded at Sedgwick County Courthouse and the original is to be provided to the City Engineer prior to approval of the Final Plans.

Inspection Arrangements

All Private Projects must be inspected and certified by a professional engineering firm, with a professional engineer licensed in the state of Kansas, with the exception of water line taps and valve operations, which are performed by City staff. Inspection arrangements are the responsibility of the Consultant Engineer, but it may be delegated to the Contractor to make arrangements. Inspection services shall be performed in accordance with the City of Wichita Standard Specifications available on the City's website in the Public Works section.

Testing

The Consultant Engineer (or the designated inspecting firm) shall perform all inspection and testing services (including televising and air testing of sewers) and shall document and provide the City satisfactory documentation of all such activities.

Final Record Drawings

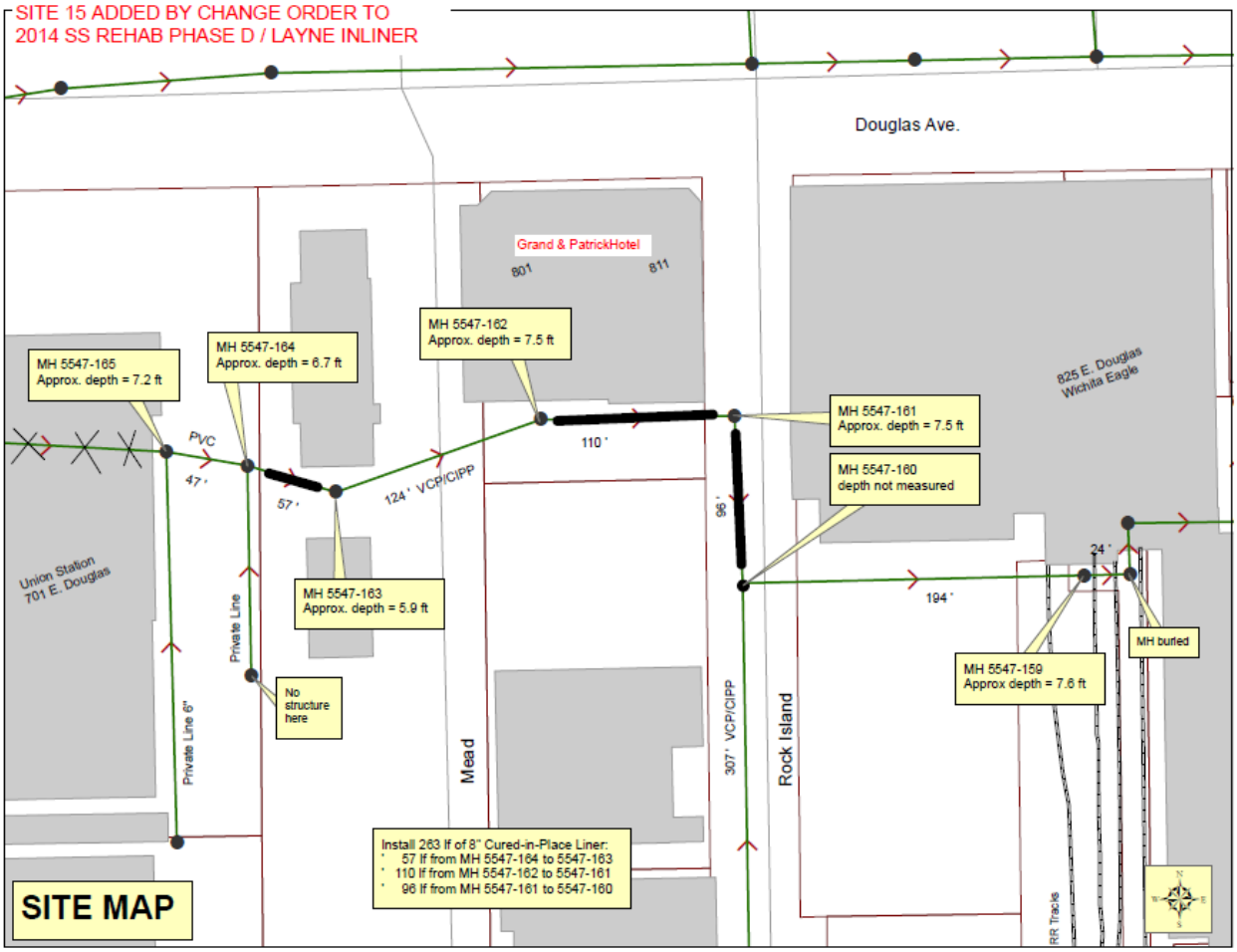
The Consultant Engineer (or the designated inspecting firm) shall document construction with Final Record drawings. Final Record (as-built) information may be added to the original .pdf or signed Mylar plans. Add information including the size, make, and reading of all meters. One .pdf (plus mylar for water) of Final Record plans shall be submitted along with the following number of 11x17 copies:

Water Lines	1
Sanitary Sewers	3
Stormwater/Drainage	1
Paving	1

EXHIBIT K

Related Utility Improvements

The City has completed the Related Utility Improvements necessary for the Project consisting of certain sanitary sewer improvements as shown below:



City Council Ordinances and Resolutions

Gilmore & Bell, P.C.
01/29/2015

(Published in ***The Wichita Eagle*** on March 6, 2015)

RESOLUTION NO. 15-[___]

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS STATING THAT THE CITY IS CONSIDERING A REDEVELOPMENT PROJECT PLAN FOR PROJECT AREA 1 WITHIN THE BOUNDARIES OF THE UNION STATION REDEVELOPMENT DISTRICT PURSUANT TO K.S.A. 12-1770 *ET SEQ*.

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

WHEREAS, by Ordinance No. 49-839, passed October 14, 2014, and published October 17, 2014, the City established a redevelopment district pursuant to K.S.A. 12-1770 *et seq.*, as amended (the "Act"), known as the Union Station Redevelopment District (the "District"), and

WHEREAS, the District Plan for the District provided that redevelopment of the District may be in several project areas within the District as set forth in separate redevelopment plans to be approved by the governing body of the City pursuant to the Act; and

WHEREAS, pursuant to Ordinance No. 49-938, passed February 10, 2015, and published February 13, 2015, a non-substantial amendment to Ordinance No. 49-839 and the District Plan was made by attaching a map of the proposed project areas; and

WHEREAS, the City has prepared a redevelopment project plan (the "Project Plan") for the Union Station Project Area 1 ("Project Area 1") within the District and is negotiating a redevelopment agreement with respect thereto and is considering adoption of the Project Plan; and

WHEREAS, on February 5, 2015, the Wichita Sedgwick County Metropolitan Area Planning Commission reviewed the proposed Project Plan and has adopted a resolution finding that the Project Plan is consistent with the comprehensive plan for the development of the City; and

WHEREAS, the City negotiated a Development Agreement, between Union Station LLC (the "Developer") and the City (the "Development Agreement") relating to the development, site preparation, utility relocation and extension and construction of public infrastructure improvements, landscaping and public plazas to be undertaken in conjunction with the development by the Developer of a mixed use development of renovation of existing buildings and construction of commercial use space within the District; and

WHEREAS, the City desires to call and conduct a public hearing under the provisions of the Act to consider approval of the Project Plan and the Development Agreement.

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

Section 1. **Project Plan**. The City is considering the approval of the Project Plan, which includes the information required by the Act. The boundaries of the of the District and the Project Area 1are set forth on ***Exhibit A*** attached hereto and are legally described as set forth in ***Exhibit B*** attached hereto, the provisions of which are incorporated herein by reference.

Section 2. Plan Delivery, Development Agreement; Public Records. The City Clerk is directed to deliver a copy of the Project Plan to the Board of County Commissioners of Sedgwick County, Kansas and to the Board of Education of Unified School District No. 259. A copy of the Project Plan, a map of Project Area 1 to be redeveloped and the Development Agreement are public records and will be on file and available for public inspection during regular office hours in the office of the City Clerk, City Hall, 13th Floor, 455 N. Main, Wichita, Kansas.

Section 3. **Public Hearing; Approval**. Notice is hereby given that the City Council of the City will conduct a public hearing to consider the approval of the Project Plan and the Development Agreement on March 17, 2015, at 9:00 a.m., or as soon thereafter as the matter can be heard, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas. At the public hearing, the City Council will receive public comment on the Project Plan and Development Agreement, and may, after the conclusion of such public hearing, consider the passage of an ordinances that makes findings necessary pursuant to the Act for approval of the Project Plan and an ordinance approving the Development Agreement.

Section 4. **Notice of Public Hearing**. The City Clerk is hereby authorized and directed to provide for notice of the public hearing by taking the following actions:

(a) a copy of this Resolution shall be mailed by United States certified mail, return receipt requested, within 10 days of this date to: (i) the Board of County Commissioners of Sedgwick County, Kansas; (ii) the Board of Education of U.S.D. No. 259; and (iii) each owner and occupant of land within Project Area 1.

(b) a copy of this resolution, specifically including ***Exhibits A*** and ***B*** attached hereto, shall be published once in the official newspaper of the City not less than one week nor more than two weeks preceding the date of the public hearing.

Section 5. **Further Authority**. The Mayor, City Manager, City Clerk and the other officers and representatives of the City, including the City's bond counsel, are hereby authorized and directed to take such other action as may be necessary, appropriate or desirable to accomplish the purposes of this resolution.

Section 6. **Effective Date** This Resolution shall be in full force and effect from and after its adoption by the City Council.

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ADOPTED by the City Council of the City of Wichita, Kansas, on February 10, 2015.

(SEAL)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Sharon L. Dickgrafe, Interim Director of
Law and City Attorney

JLN\600809.70376\RESOLUTION CALLING PLAN 1 HEARING

(Signature Page to Resolution)

Exhibit A

Map of Project Areas

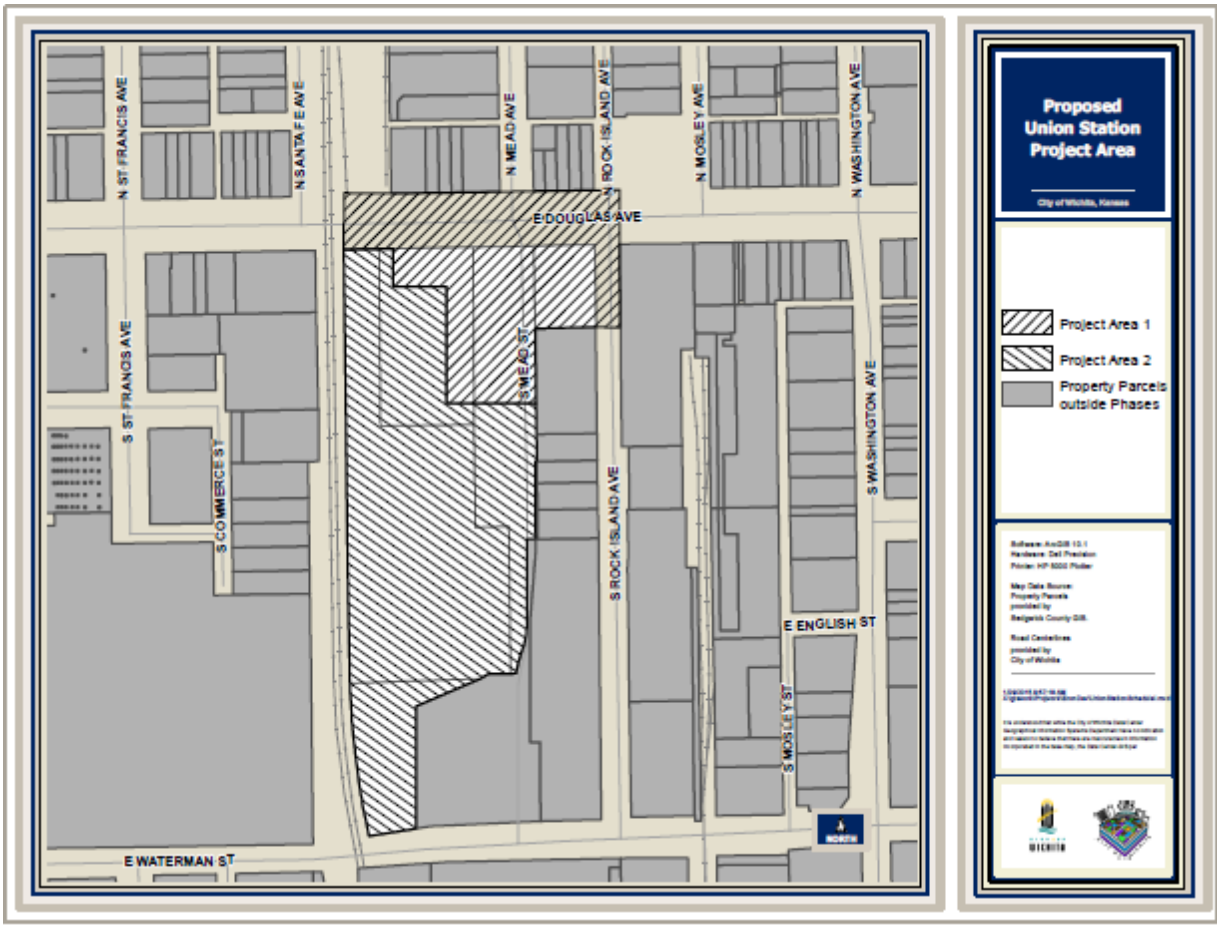


Exhibit B

Legal Description
Project Area 1

That part of the SW1/4 of Sec. 21, T27S, R1E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northeast corner of Lot 3, Union Station Addition, Wichita, Sedgwick County, Kansas; thence S00°00'00"W along the east line of said Lot 3, 170.72 feet; thence S89°56'00"W, 125.00 feet; thence S00°00'00"W, 138.00 feet; thence S90°00'00"W, 192.20 feet; thence N00°05'00"W, 32.23 feet; thence N89°55'00"E, 11.00 feet; thence N00°05'00"W, 28.00 feet; thence S89°55'00"W, 11.00 feet; thence N00°05'00"W, 169.79 feet; thence S89°56'00"W, 104.22 feet; thence N00°05'00"W, 78.47 feet to the north line of said addition; thence N89°56'00"E along said north line, 421.86 feet to the place of beginning.

Metropolitan Area Planning Commission Resolution

Gilmore & Bell, P.C.
01/23/2015

RESOLUTION

A RESOLUTION OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION FINDING THAT THE CITY OF WICHITA, KANSAS REDEVELOPMENT PROJECT PLAN FOR THE UNION STATION PROJECT AREA 1 LOCATED WITHIN THE UNION STATION REDEVELOPMENT DISRICT IS CONSISTENT WITH THE COMPREHENSIVE GENERAL PLAN FOR THE DEVELOPMENT OF THE CITY OF WICHITA, KANSAS.

WHEREAS, by Ordinance No. 49-839, passed October 14, 2014, and published October 17, 2014, the City of Wichita, Kansas (the "City") established a redevelopment district pursuant to K.S.A. 12-1770 *et seq*., as amended, known as the Union Station Redevelopment District (the "District"), and

WHEREAS, the City prepared a redevelopment project plan entitled "Union Station Project Plan for Union Station Redevelopment District, dated November 20, 2014" (the "Original Project Plan") in accordance with the Act, which includes, but is not limited to, land acquisition, site preparation, utility relocation and extension, public infrastructure improvements, landscaping, public plazas and a public parking structure (collectively, the "Original Project") to be undertaken in conjunction with the development by a private developer of a mixed use development of approximately 275,000 square feet of renovation of existing buildings and new construction of retail, restaurants, office space, located on approximately 10 acres within the Union Station Project Area of the District (the "Original Project Area"); and

WHEREAS, on November 20, 2014, the Wichita Sedgwick County Metropolitan Area Planning Commission reviewed the proposed Original Project Plan and adopted a resolution finding that the Original Project Plan is consistent with the comprehensive plan for the development of the City; and

WHEREAS, the City did not adopt the Original Project Plan, has divided the District into two project areas and has prepared a redevelopment project plan entitled "Union Station Redevelopment District, Project Area 1 Project Plan, dated February 5, 2015" (the "Project Area 1 Plan") in accordance with the Act, which includes, but is not limited to, land acquisition, site preparation, utility relocation and extension, public infrastructure improvements, landscaping and public plazas (collectively, the "Project Area 1 Project") to be undertaken in conjunction with the development by a private developer of a mixed use development of renovation of existing buildings and construction of commercial use space, located within the Union Station Project Area 1 of the District ("Project Area 1") and is considering adoption of the Project Area 1 Plan; and

WHEREAS, a relocation assistance plan under K.S.A. 12-1777 is not required within in the Project Area 1 Plan; and

WHEREAS, the Act provides that any city proposing to undertake a redevelopment project within a redevelopment district shall prepare a redevelopment project plan in consultation with the planning commission of such city; and

WHEREAS, the City's proposed Project Area 1 Plan has been presented to and reviewed by the

Wichita-Sedgwick County Metropolitan Area Planning Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION:

SECTION 1. It is hereby, after due consideration, found that the Project Area 1 Plan is consistent with the comprehensive general plan for the development of the City.

SECTION 2. This Resolution shall be in full force and effect from and after its adoption.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the Wichita-Sedgwick County Metropolitan Area Planning Commission on February 5, 2014.

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION

(Seal)

_____
Matt Goolsby, Chair

ATTEST:

_____
John L. Schlegel, Secretary

APPROVED AS TO FORM:

_____
Sharon L. Dickgrafe, Interim Director of Law and City Attorney

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Emergency Manhole Repair at the Northwest Wastewater Treatment Plant

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Ratify and approve the emergency manhole repair.

Background: A sewage backup occurred at the Northwest Wastewater Treatment Plant (Plant #3). Staff has determined that the backup has been caused by a collapsed manhole. Sewage is being diverted into on-site retention while the manhole remains in disrepair, so sewage has not been discharged into the river.

Analysis: Dondlinger Construction has been brought in to repair the collapsed manhole. They have the expertise and equipment specific to such a repair, and the staff available to expedite the repair. Expediting repairs minimizes the chance of sewage reaching the environment.

Financial Considerations: Due to the urgent nature and the unknown extent of the repairs needed, the cost of repairing the main is unknown at this time. Staff estimates a cost of up to $100,000. If it is determined that the cost will exceed $100,000, staff will first return to the City Council for additional authority. Funds are available in the Sewer Utility Fund. The approved action will serve to authorize the necessary budget adjustment to use Sewer contingency funds.

Legal Considerations: City Ordinance 2.64.020(a), "Emergencies," expressly authorizes the City Manager to approve work to be performed for emergency repair of critical infrastructure facilities by an outside contractor without formal bidding. Repair of water main leaks is an example expressly described in the ordinance for emergency approval. The City Manager approved proceeding with the project on January 30, 2015.

Recommendations/Actions: It is recommended that the City Council ratify the City Manager's emergency approval of the work and authorize the necessary signatures.

Attachments: Memo to the City Manager.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Robert Layton, City Manager

THROUGH: Alan King, Director of Public Works & Utilities
Don Henry, Assistant Director of Public Works & Utilities

FROM: Ben Nelson, Strategic Services Manager BN

DATE: January 30, 2015

SUBJECT: Emergency Manhole Repair at the Northwest Wastewater Treatment Plant

There is a sewage backup at the Northwest Wastewater Treatment Plant (known as Plant #3). Staff from the Sewage Treatment and Sewer Maintenance have determined that the cause of the backup is a collapsed manhole. Sewage is being diverted into on-site retention while the manhole remains in disrepair, so sewage has not been discharged into the river.

Dondlinger Construction is being brought in this afternoon to repair the collapsed manhole over the weekend. They have sufficient knowledge of the repair process. They also have the equipment and labor resources to resolve the issue as quickly as possible. Expediting repairs can minimize the chances of sewage reaching the environment.

Due to the urgent nature and the unknown extent of the repairs, the cost of the repairs is unknown. We anticipate it could cost up to $100,000 and will update you as often as the situation changes. The cost will not exceed $100,000 without further authorization. Funds are available in the Sewer Utility Fund.

I request that you declare this a Public Exigency, which is defined under City Code, Section 2.64.020(a), as an instance when public exigency will not permit the delay incident to advertising, as determined and approved by the City Manager. An approval line has been provided if you concur with this request. A subsequent agenda item will be prepared to obtain City Council acknowledgement of this declaration action.

Robert Layton, City Manager

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: Emergency Raw Water Main Repair at the Water Treatment Plant

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Ratify and approve the emergency water main repair.

Background: A leak was detected in the primary raw water feed leading into the Water Filter Plant. The initial work of constructing and testing a bypass system testing has been completed. Next steps include reviewing and planning for a permanent repair solution.

Analysis: Professional Engineering Consultants (PEC) has completed the design phase of the repair, and their continued expertise is needed as the project moves into Phase II. The repair will also require a contractor with specialized equipment and expertise. Staff recommends Brown and Caldwell Engineering as the contractor with the necessary equipment and expertise to lead into Phase II. They will provide an internal and external assessment of the pipe condition, provide recommendations for repair, and manage the project repair through completion.

Financial Considerations: Due to the urgent nature and the unknown extent of the repairs needed, the cost of repairing the main is unknown at this time. Staff estimates up to $100,000 for the services provided by Professional Engineering Consultants, Brown and Caldwell Engineering, and other resources needed on site for the assessment. If it is determined that the combined cost will exceed $100,000, staff will first return to the City Council for additional authority. Funding is available in the approved W-67 Distribution Mains Replacement budget.

Legal Considerations: City Ordinance 2.64.020(a), "Emergencies," expressly authorizes the City Manager to approve work to be performed for emergency repair of critical infrastructure facilities by an outside contractor without formal bidding. Repair of water main leaks is an example expressly described in the ordinance for emergency approval. The City Manager approved proceeding with the project on January 30, 2015.

Recommendations/Actions: It is recommended that the City Council ratify the City Manager's emergency approval of the work and authorize the necessary signatures.

Attachments: Memo to the City Manager.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: Robert Layton, City Manager

THROUGH: Alan King, Director of Public Works & Utilities
Don Henry, Assistant Director of Public Works & Utilities
Ben Nelson, Strategic Services Manager

FROM: LaShonda Garnes, Business Operations Manager LG

DATE: January 30, 2015

SUBJECT: Emergency Raw Water Main Repair / Water Treatment Plant

The initial work of constructing a bypass system has been completed and system testing is underway. Testing is scheduled to go throughout the remainder of the weekend, with a preliminary schedule to begin the review and planning for a permanent repair solution.

Professional Engineering Consultants will continue providing their expertise as we move into Phase II of the project. The repair will require a contractor with special equipment and special expertise. Staff has identified Brown and Caldwell Engineering as the contractor with the specialized expertise to lead the next phase of the project.

Brown and Caldwell Engineering will take the lead on securing firms to assist with the leak detection and inspection. They will provide their expertise in assessing the internal and external conditions on the pipe and provide recommendations for repair solutions, as well as, managing the project repair through completion.

Due to the urgent nature and the unknown extent of the repairs, the cost of the repairs is unknown. We anticipate it could cost up to $100,000 for the above services from Professional Engineering Consultants, Brown and Caldwell Engineering, and the other resources that will need to be brought on site for assessment. If the cost changes an update will be provided to you as often as the situation changes. The cost will not exceed $100,000 without further authorization. Funds are available from the CIP project W-67, Distribution Mains-Replacement.

I request that you declare this a Public Exigency, which is defined under City Code, Section 2.64.020(a), as an instance when public exigency will not permit the delay incident to advertising, as determined and approved by the City Manager. An approval line has been provided if you concur with this request. A subsequent agenda item will be prepared to obtain City Council acknowledgement of this declaration action.

Robert Layton, City Manager

-lml

Second Reading Ordinances for February 10, 2015 (first read on February 3, 2015)

A. <u>Ordinance Making a Non-Substantial Change to the Union Station District Plan.</u> (District I)

ORDINANCE NO. 49-938

AN ORDINANCE AMENDING ORDINANCE NO. 49-839 OF THE CITY OF WICHITA, KANSAS, RELATING TO A NON-SUBSTANTIAL CHANGE TO THE DISTRICT PLAN FOR THE UNION STATION REDEVELOPMENT DISTRICT.

B. <u>PUD2014-00002 – Zone Change from LI Limited Industrial to Planned Unit Development #43 on Property Located East of South West Street, Approximately 1/3 Mile South of West macArthur Road, 4340 South West Street</u>. (District IV)

ORDINANCE NO. 49-937

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.

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

SUBJECT: ZON2014-00028 – Request to Amend Protective Overlay #78 to Allow a Wireless Communication Facility with a 100-Foot Monopole on GC General Commercial on Property Generally Located North of MacArthur Road and Northwest of Kansas Highway K-42 (District IV)

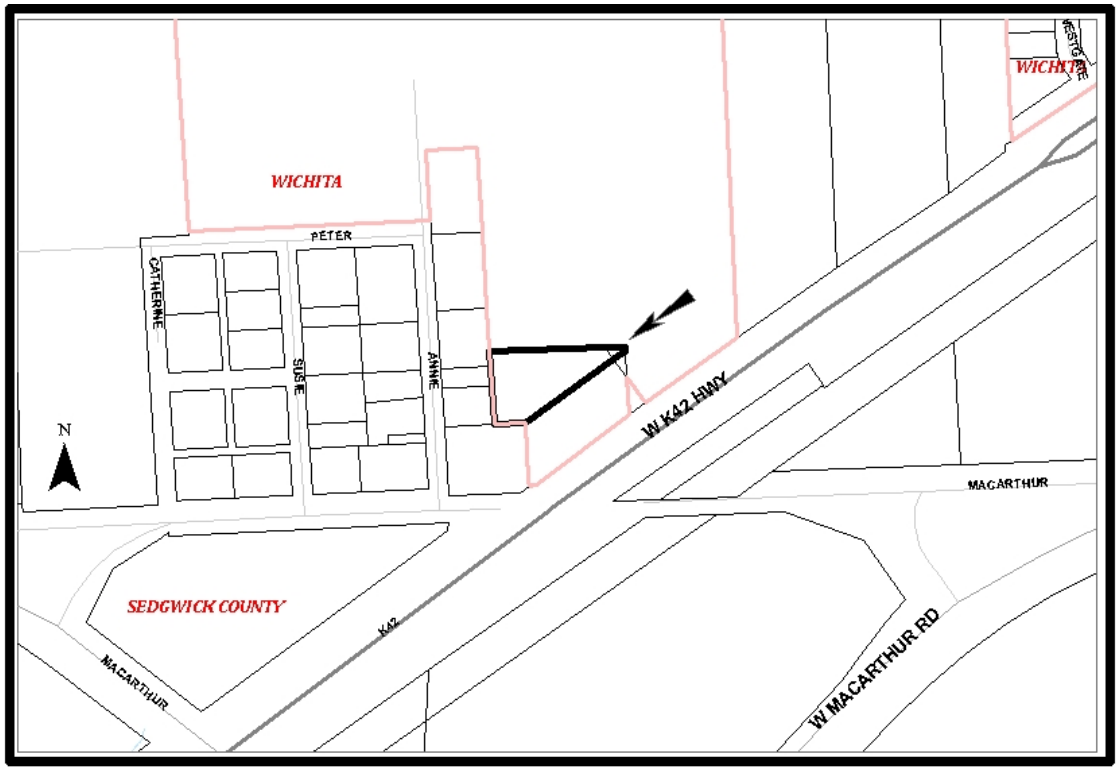
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (8-0).

DAB Recommendation: District Advisory Board IV did not oppose the request (no vote).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant, Spire Wireless, is seeking to amend Protective Overlay PO #78 to permit the construction of a wireless communication facility with a 100-foot tall, galvanized steel, monopole tower within a 35-foot (x) 50-foot lease site on GC General Commercial zoned property; Lot 1, Block A, Schulte Country Storage Addition. Spire Wireless is a new provider to the area and it proposes to provide 4G service to the area. PO #78 confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district (with some prohibited uses) and a self-storage warehouse with supplemental use regulations. PO #78 also has a building height restriction of 20 feet, which the proposed 100-foot tall tower exceeds. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the "Wireless Communication Master Plan," thus the following considerations.

The GC zoned lease site is located north of MacArthur Road and northwest of Kansas State Highway K-42. Because of the site's close proximity (approximately 1-1/2 miles southwest of the end of a runway) to the Wichita Mid-Continent Airport, it is located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The Wichita Mid-Continent Airport Authority has provided a copy of the FAA review of this airspace application and determined that there is no hazard to air navigation associated with this proposed structure up to a maximum height of 115 feet above ground level at the coordinates provided. The Airport Authority would not oppose this structure as long as it meets the criteria identified in the attached airspace study. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also recognize that the proposed monopole is exempt from PO #78's 20-foot building height restriction.

Analysis: On November 20, 2014, the Metropolitan Area Planning Commission (MAPC) considered the request. There were no protests at the MAPC meeting. The MAPC voted 8-0 to approve the request.

On December 1, 2014, District Advisory Board (DAB) IV considered the request. The DAB IV members were not able to vote on this issue due to a lack of a quorum. The DAB members that were present expressed no opposition to the request and instructed Planning to forward the case to City Council. There were no protests against the request at the DAB IV meeting.

Planning staff has received no valid protest and received no calls protesting the request.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

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

Recommendation/Actions: It is recommended that the City Council concur with the findings of the MAPC and approve the zoning and place the ordinance on first reading (simple majority vote required).

Attachments:
- MAPC minutes
- DAB memo
- Ordinance

OCA 150004

ORDINANCE NO. 49-940

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. ZON2014-00028

An amendment to Protective Overlay PO #78 on the following described portion of the 0.94-acre GC General Commercial zoned Lot 1, Block A, Schulte Country Storage Addition:

LEASE TRACT DESCRIPTION: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 1; thence S87°44'36"W (Assumed), along the north line of said Lot 1, 184.22 feet; thence S02°15'24"E, perpendicular with the north line of said Lot 1, 74.51 feet to the point of beginning; thence continue S02°15'24"E, 50.00 feet; thence S87°44'36"W, parallel with the north line of said Lot 1, 50.00 feet; thence N02°15'24"W, perpendicular to the north line of said Lot 1, 50.00 feet; thence N87°44'36"E, parallel with the north line of said Lot 1, 50.00 feet to the Point of Beginning. Subject property contains 2,500 square feet, or 0.057 Acres.

&

15-foot wide ACCESS AND UTILITY EASEMENT: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas and a portion of Lot 1, Block A, Schulte Country Store Addition, Sedgwick County, Kansas, more particularly described as commencing at the northeast corner of Lot 1, Block A, said Schulte Country Storage Addition; thence S87°44'36"W (Assumed) along the north line of Lot 1, Block A, said Schulte Country Storage Addition, 184.22 feet; thence S02°15'24"E, perpendicular to the north line of Lot 1, Block said Schulte Country Storage Addition, 100.38 feet to the point of beginning; thence N52°59'36"E, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 82.47 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 32.40 feet; thence continue S37°00'24"E, 40.15 feet; thence S52°59'36"W, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 95.96 feet, to a point on the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said point being 71.02 feet southwest of the southeast corner of Lot 1,

Block A, said Schulte Country Store Addition; thence southwesterly along the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said line being a curve to the left having a radius of 19,158.61 feet, an arc length of 15.00 feet, a chord length of 15.00 feet and a chord bearing of S53°36'10"W; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 110.80 feet; thence N52°59'36"E, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 25.15 feet; thence continue N37°00'24"W, 17.40 feet; thence S52°59'36"W, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition 77.87 feet; thence N02°15'24"W, perpendicular to the north line of Lot 1, Block A , said Schulte Country Storage Addition, 18.26 feet to the Point of Beginning.; generally located north of MacArthur Road and northwest of Kansas Highway K-42.

SUBJECT TO THE FOLLOWING PROVISIONS:

A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. This 50-foot (x) 50-foot lease area for the wireless communication facility and its 100-foot tall galvanized steel monopole shall also meet all the criteria of an FAA airspace study.
B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. This will include providing a copy of the recorded proposed 15-foot access and utility easement to the Metropolitan Area Building and Construction Department and Planning.
C. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
E. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 15 feet when mature and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the City of Wichita Engineer with any required plans, including drainage, for review and approval of the site.
G. The proposed monopole will be allowed to exceed Protective Overlay #78 20-foot height limitation. All other provisions of Protective Overlay will remain in effect.

H. If the Zoning Administrator finds that there is a violation of any of the amended provisions of Protective Overlay #78, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amended portions of Protective Overlay is null and void.

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: _____
Sharon Dickgrafe, Interim City Attorney

EXCERPT MINUTES OF THE NOVEMBER 20, 2014 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

Case No.: ZON2014-00028 – Schulte County Storage, LLC, c/o James Peterson (owner) Spire Wireless, c/o Kathryn Roderique Collective Services (applicant-agent) request a City request to amend Protective Overlay PO-78 to allow a wireless communication facility with a 100-foot monopole on the GC General Commercial zoned property on property described as:

Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant, Spire Wireless, is seeking to amend Protective Overlay PO #78 to permit the construction of a wireless communication facility with a 100-foot tall, galvanized steel, monopole tower within a 35-foot (x) 50-foot lease site on GC General Commercial zoned property; Lot 1, Block A, Schulte Country Storage Addition. Spire Wireless is a new provider to the area and it proposes to provide 4G service to the area. PO #78 confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a building height restriction of 20 feet, which the proposed 100-foot tall tower exceeds. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the "Wireless Communication Master Plan," thus the following considerations.

The GC zoned lease site is located north of MacArthur Road and northwest of Kansas State Highway K-42. Because of the site's close proximity (approximately 1-1/2 miles southwest of the end of a runway) to the Wichita Mid-Continent Airport, it is located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The Wichita Mid-Continent Airport Authority has provided a copy of the FAA review of this airspace application and determined that there is no hazard to air navigation associated with this proposed structure up to a maximum height of 115 feet above ground level at the coordinates provided. The Airport Authority would not oppose this structure as long as it meets the criteria identified in the attached airspace study. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the Wireless Communication Master Plan. The site plan shows proposed 100-foot tower being designed for co-location for at least three (3) providers, which also meets the intent of the Design Guidelines of the Wireless Communication Master Plan. The proposed tower is shown with triangular antenna arrays.

The applicant's RF Engineer has stated that the proposed facility is needed to provide coverage to an area that has low to no coverage. The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing service to the area. The RF Engineer has provided a site selection map, which shows the nearest tower located 0.71-miles northeast of the subject site. This sites was rejected because it was located on the edge of the site's search ring and it was too short (49.9 feet) to provide the desired service area. The one-mile site search ring showed no other co-location opportunities. Planning staff has drove this area to confirm the lack of communication towers within this one-mile area around the subject site.

The site abuts SF-20 Single-Family Residential zoned residences (located in the County, District #2) on its west side and the SF-5 Single-Family Residential zoned St. Peter's Catholic Church and school

development on its north and east sides. There are more SF-20 and SF-5 zoned single-family residences located adjacent to the site's west, north and east sides. A LC Limited Commercial zoned convenience store, commercial strip building, a day care and single-family residence abut and are adjacent to the site's south and southwest side of the site, with all of them located along K-42. SF-20 farmland and LI Limited Industrial zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments are located south (across K-42) and east (abutting the already mentioned SF-20 and SF-5 zoned single-family residences) of the site. Some of these LI and SF-20 zoned sites would seem to be less problematic than the proposed site because of their distance from the area's single-family residences. However, most of the LI zoned properties are located within Airport Hazard Zone A, which has a maximum structural height of 25 feet or less, thus presenting an obstacle in height that the proposed site does not have. The closest LI zoned site, the warehouse located directly south across K-42, is located within Airport Hazard Zone B, the same as the subject site. The SF-20 zoned farmlands located south of the site, across K-42, are located within Airport Hazard Zone C, which has a maximum structural height of 150 feet or less. Prior to the application being made Planning had pointed out the advantages of the LI zoned warehouses and the SF-20 farmlands to Spire Wireless (the applicant). Staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application.

The applicant's site plan shows the wireless facility located within the interior of the self-storage warehouse site. The self-storage warehouse walls and the site's masonry wall provide ground level screening along the west, north and the east sides where it abuts SF-20 and SF-5 zoned properties. The south portion of the subject site provide no screening as it abuts the LC zoned convenience store. The site plan shows that the wireless facility conforms to the UZC's compatibility height standards. The site plan shows landscaping. The site plan shows access to K-42 via a proposed 15-foot access and utility easement through the abutting convenience store; prior to the issuance of a building permit a copy of the recorded proposed 15-foot access and utility easement must be provided to the Metropolitan Area Building and Construction Department and Planning.

CASE HISTORY: ZON2000-00039 and PO #78 was approved by the Sedgwick County Board of County Commissioners October 18, 2000. Lots 1 & 2, Block A, Schulte Country Storage Addition was recorded with the Register of Deeds October 9, 2001.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	St. Peter's Catholic Church and school development
SOUTH: LC, LI, SF-20	Convenience store, commercial strip building, warehouses, farm land
EAST: SF-5, SF-20	St. Peter's Catholic Church and school development, single-family residences
WEST: SF-20, LC	Single-family residences, day care

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access-utility easement to K-42, a paved two-lane Kansas state highway. The proposed wireless communication facility and its 100-foot tall tower will generate less traffic onto K-42 than any of the abutting and adjacent properties.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The UZC considers a wireless communication facility a commercial type of use. The site's GC zoning is appropriate for the local commercial category.

The GC zoned site located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. The proposed tower is 100 feet tall. Although the Wireless Communication Master Plan

permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The GC zoned site is subject to PO #78, which confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a 20-foot building height restriction. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the Wireless Communication Master Plan. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant's site plan shows the tower meeting the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 100-foot monopole tower is the first tower in the area. The proposed tower's close proximity to the area's residential development is supposed to provide 4G service to the area's residential and nonresidential customers in this part of the city and county. The residence of the area will need to consider the advantages of the proposed service with intrusion of the 100-foot tower into their line of sight; 2) Minimize the height, mass, or proportion. Making the tower shorter may lead to more towers that would be needed to provide the desired coverage; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular antenna arrays. However, triangular antenna arrays tend to provide better coverage; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. These design disguises were not mentioned in the application, although St Peter's church could have provided such an opportunity; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The site's self-storage warehouse buildings and its masonry wall provide screening from the ground level up to maybe 9-10 feet to obscure the presences of a 100-foot tall monopole. Planting large evergreens and/or solid screening could provide cover from the ground up to 20-40 feet; 7) Be placed on walls or roofs of buildings. The one-mile site search ring showed no co-location opportunities; 8) Be screened through landscaping, walls, and/or fencing. Planting junipers/evergreens (a minimum of 5 feet tall at the planting, spaced 15 feet apart, center to center of each juniper/evergreen. This spacing will provide solid screening when the junipers/evergreens mature and with proper care provide a more attractive and efficient screening than the 9-10 foot tall buildings; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

RECOMMENDATION: The challenge of planning for personal wireless service facilities is the same as that for many other land uses: balancing marketplace demands with public expectations for an orderly and attractive environment. The Wireless master Plan anticipates entry into residential areas is the final part of the business plan of most personal wireless service providers to replace wired phones in customers' homes. The GC zoned self-storage warehouse site for the proposed wireless communication facility and 100-foot tall monopole is less appropriate than the south adjacent, across K-42 highway, LI zoned warehouses and SF-20 zoned farmland, because it is abutting SF-20 zoned single-single-family residences. However, staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 100-foot tall monopole tower with its 4G technology against the site's

visual impact. Based on the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. This 35-foot (x) 50-foot lease area for the wireless communication facility and its 100-foot tall galvanized steel monopole shall also meet all the criteria identified in the attached FAA airspace study.
B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. This will include providing a copy of the recorded proposed 15-foot access and utility easement to the Metropolitan Area Building and Construction Department and Planning.
C. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
E. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 15 feet when mature and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the City of Wichita Engineer with any required plans, including drainage, for review and approval of the site.
G. If the Zoning Administrator finds that there is a violation of any of the amended provisions of Protective Overlay #78, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amended portions of Protective Overlay is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in a part of the city that is on the edge of the county. The site abuts SF-20 Single-Family Residential zoned residences (located in the County, District #2) on its west side and the SF-5 Single-Family Residential zoned St. Peter's Catholic Church and school development on its north and east sides. There are more SF-20 and SF-5 zoned single-family residences located adjacent to the site's west, north and east sides. A LC Limited Commercial zoned convenience store, commercial strip building, a day care and single-family residence abut and are adjacent to the site's south and southwest side of the site, with all of them located along K-42. SF-20 farmland and LI Limited Industrial zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments are located south (across K-42) and east (abutting the already mentioned SF-20 and SF-5 zoned single-family residences) of the site. Some of these LI and SF-20 zoned sites would seem to be less problematic than the proposed site because of their distance from the area's single-family residences. However, most of the LI zoned properties are located within Airport Hazard Zone A, which has a maximum structural height of 25 feet or less, thus presenting an obstacle in height that the proposed site does not have. The closest LI zoned site, the warehouse located directly south across K-42, is located within Airport Hazard Zone B, the

same as the subject site. The SF-20 zoned farmlands located south of the site, across K-42, are located within Airport Hazard Zone C, which has a maximum structural height of 150 feet or less.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GC and is currently developed with a self-storage warehouse, with a Protective Overlay, PO #78. The 0.94-acres site could be re-developed for many commercial, office-ware house types of uses, within the restrictions of PO #78 and its size. The site's GC zoning and self-storage warehouse is not entirely out of character with the area because of adjacent LI zoned warehouses, a building supply store and a cluster of warehouse-offices, trucking and manufacturing developments. The tower would be the first in the area if approved.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 100-foot tall, wireless, galvanized steel, monopole would be the first in the area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 100-foot tall monopole tower against the site's visual impact.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility with its 100-foot tall tower is supposed to provide 4G service to the residences and businesses in this part of Wichita and Sedgwick County. The UZC considers a wireless communication facility a commercial type of use.

   The GC zoned site located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. The proposed tower is 100 feet tall. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The GC zoned site is subject to PO #78, which confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a 20-foot building height restriction. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the Wireless Communication Master Plan. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also include the 20-foot building height restriction.

   The proposed site mostly conforms to the guidelines of the Wireless Communication Master Plan for locating wireless communication facilities. Although this will be the first tower in the area is not out of character with this area's LI zoned properties and the current development or the development that the LI zoning allows. The proposed tower's proximity to the area's residential development is more intrusive than what is or can developed one of the area's LI Zoned properties (the warehouses located south of the site, across K-42) or the SF-20 zoned farmland. Staff has been provided no information in regards any contact or a willingness of the LI zoned warehouses and SF-20 zoned farmland to partner in the proposed wireless facility, thus the current application. But the Wireless Plan anticipates that as more of the general population continues to use the services provided by these facilities, the location of wireless facilities in closer proximity to residential areas is probable. The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

BILL LONGNECKER, Planning Staff presented the Staff Report.

HANS MUGLER, 1736 WESTPARK CENTER DRIVE, SUITE 201, AGENT FOR SPIRE WIRELESS explained that there was a gap of coverage in the area. He said Verizon Wireless will also be on the tower. He said this was the best possible place to locate the tower within the search ring with a willing land owner. He said they have received all required FAA clearances and will meet all recommendations and conditions listed in the Staff Report.

MOTION: To approve subject to the staff recommendation.

MCKAY moved, **B. JOHNSON** seconded the motion, and it carried (8-0).

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC
FROM: Case Bell, Community Liaison
SUBJECT: **ZON2014-28**
DATE: December 1, 2014

Bill Longnecker, Planning, presented on a request to amend Protective Overlay #78 to allow a wireless communication facility for the lot generally located north of MacArthur Road and northwest of Kansas Highway K-42. The applicant, Spire Wireless, is seeking to amend Protective Overlay PO #78 to permit the construction of a wireless communication facility with a 100-foot tall, galvanized steel, monopole tower within a 35-foot (x) 50-foot lease site on GC General Commercial zoned property; Lot 1, Block A, Schulte Country Storage Addition. Spire Wireless is a new provider to the area and it proposes to provide 4G service to the area. PO #78 confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district, some prohibited uses and a self-storage warehouse with supplemental use regulations. PO #78 also has a building height restriction of 20 feet, which the proposed 100-foot tall tower exceeds. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the "Wireless Communication Master Plan." Because of the site's close proximity (approximately 1-1/2 miles southwest of the end of a runway) to the Wichita Mid-Continent Airport, it is located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed.

The FAA has weighed in and said that there is no safety issue with the height restriction. The single family homes in the area have expressed concern, but there has been no formal protests.

Questions:
None

The DAB IV members were not able to vote on this issue due to a lack of a quorum. Of the DAB members present, none expressed opposition to the request.

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. ZON2014-00028

An amendment to Protective Overlay PO #78 on the following described portion of the 0.94-acre GC General Commercial zoned Lot 1, Block A, Schulte Country Storage Addition:

LEASE TRACT DESCRIPTION: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 1; thence S87°44'36"W (Assumed), along the north line of said Lot 1, 184.22 feet; thence S02°15'24"E, perpendicular with the north line of said Lot 1, 74.51 feet to the point of beginning; thence continue S02°15'24"E, 50.00 feet; thence S87°44'36"W, parallel with the north line of said Lot 1, 50.00 feet; thence N02°15'24"W, perpendicular to the north line of said Lot 1, 50.00 feet; thence N87°44'36"E, parallel with the north line of said Lot 1, 50.00 feet to the Point of Beginning. Subject property contains 2,500 square feet, or 0.057 Acres.

&

15-foot wide ACCESS AND UTILITY EASEMENT: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas and a portion of Lot 1, Block A, Schulte Country Store Addition, Sedgwick County, Kansas, more particularly described as commencing at the northeast corner of Lot 1, Block A, said Schulte Country Storage Addition; thence S87°44'36"W (Assumed) along the north line of Lot 1, Block A, said Schulte Country Storage Addition, 184.22 feet; thence S02°15'24"E, perpendicular to the north line of Lot 1, Block said Schulte Country Storage Addition, 100.38 feet to the point of beginning; thence N52°59'36"E, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 82.47 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 32.40 feet; thence continue S37°00'24"E, 40.15 feet; thence S52°59'36"W, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 95.96 feet, to a point on the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said point being 71.02 feet southwest of the southeast corner of Lot 1,

Block A, said Schulte Country Store Addition; thence southwesterly along the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said line being a curve to the left having a radius of 19,158.61 feet, an arc length of 15.00 feet, a chord length of 15.00 feet and a chord bearing of S53°36'10"W; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 110.80 feet; thence N52°59'36"E, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 25.15 feet; thence continue N37°00'24"W, 17.40 feet; thence S52°59'36"W, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition 77.87 feet; thence N02°15'24"W, perpendicular to the north line of Lot 1, Block A , said Schulte Country Storage Addition, 18.26 feet to the Point of Beginning.; generally located north of MacArthur Road and northwest of Kansas Highway K-42.

SUBJECT TO THE FOLLOWING PROVISIONS:

A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. This 50-foot (x) 50-foot lease area for the wireless communication facility and its 100-foot tall galvanized steel monopole shall also meet all the criteria of an FAA airspace study.
B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. This will include providing a copy of the recorded proposed 15-foot access and utility easement to the Metropolitan Area Building and Construction Department and Planning.
C. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
E. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 15 feet when mature and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the City of Wichita Engineer with any required plans, including drainage, for review and approval of the site.
G. The proposed monopole will be allowed to exceed Protective Overlay #78 20-foot height limitation. All other provisions of Protective Overlay will remain in effect.

H. If the Zoning Administrator finds that there is a violation of any of the amended provisions of Protective Overlay #78, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amended portions of Protective Overlay is null and void.

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: _____
Sharon Dickgrafe, Interim City Attorney

Agenda Item No. II-20

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

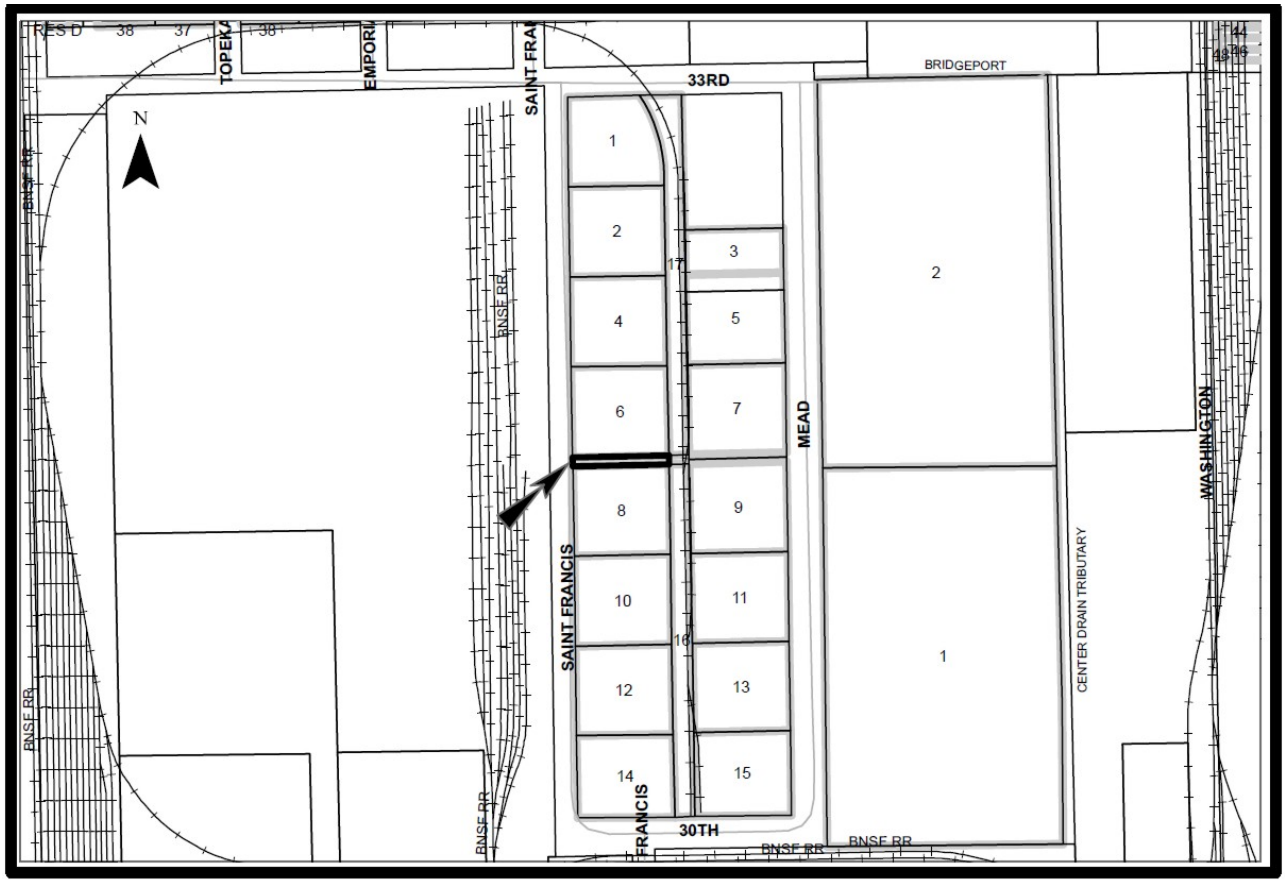
SUBJECT: VAC2014-00035 - Request to Vacate a Portion of a Platted Alley Generally Located South of 33rd Street North on the East Side of St Francis Avenue (District VI)

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 recommends approval of the vacation request (10-0).



Background: The applicant is requesting the vacation of the west half of the platted 20-foot wide alley abutting Lot 6 (north side) and Lot 8 (south side), all in Block A, the west side of a platted railroad right-of-way, all in the Santa Fe Industrial District Addition, and the east side of St. Francis Avenue. A railroad track separates the subject half of the alley from the east half of the alley, which was vacated through vacation case VAC2011-00030. There is no crossing over the railroad track. There are no public utilities located in the alley. The applicant has contacted Westar to resolve the location of their facilities near the vacation area.

Analysis: The Metropolitan Area Planning Commission (MAPC**)** voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order and a covenant binding and tying the vacated alley to the abutting properties. The original Vacation Order and the covenant binding and tying the vacated alley to the abutting properties will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order
- A covenant binding and tying the vacated alley to the abutting properties

COVENANT

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, Underground Vaults and Storage, Inc. is the owner of the following described real estate, to-wit:

> Lots 6 and 8, Block A, Santa Fe Industrial District Addition to Wichita, Sedgwick County, Kansas.

NOW THERFORE, in consideration of receiving approval from the appropriate government authorities for the vacation (vacation case VAC2014-00035) of that part of the 20-foot wide alley right-of-way that lies between Lots 6 and 8, east of St. Francis and west of the AT & SF Railroad right-of-way intersection, the undersigned agrees covenants that the aforementioned vacated right-of-way & lots shall be retained, held and bound together.

It is also understood that this covenant shall be binding upon the undersigned, his successors and assigns, and shall run with the land until such time as the said properties are replatted.

Date this 31ST day of December, 2014

UNDERGROUND VAULTS + STORAGE INC.
By [signature] PRESIDENT

STATE OF KANSAS)
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 31ST day of December, 2014, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Lee A Spence PRESIDENT who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf of the corporation.

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

Janet A Washburn
Notary Public

My Commission Expires 6-12-2017

NOTARY PUBLIC - State of Kansas
JANET A. WASHBURN
My Appt. Exp. 6-12-17

BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PORTION OF A PLATTED ALLEY	)	
GENERALLY LOCATED SOUTH OF 33RD STREET NORTH, ON THE EAST SIDE OF ST. FRANCIS AVENUE	)	**VAC2014-00035**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 10th day of February, 2015, comes on for hearing the petition for vacation filed by Underground Vaults & Storage, Inc., c/o Lee A. Spence, President (owner), praying for the vacation of the following described portion of a platted alley, to-wit:

That part of the 20-foot wide alley right-of-way that lies between Lots 6 and 8, Block A, Santa Fe Industrial District Addition, east of St. Francis and west of the AT & SF Railroad right-of-way intersection, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on October 16, 2014, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described portion of the platted alley and the public will suffer no loss or inconvenience thereby.

3. A Covenant binding and tying the vacated portion of the platted alley to Lots 6 and 8, Block A, Santa Fe Industrial District Addition, will be recorded with this Vacation Order at the Sedgwick County Register of Deeds.

4. In justice to the petitioner(s), the prayer of the petition ought to be granted.

5. No written objection to said vacation has been filed with the City Clerk by any

owner or adjoining owner who would be a proper party to the petition.

6. The vacation of the described portion of the platted alley should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February, 2015, ordered that the above-described portion of the platted alley is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Sharon Dickgrafe, Interim City Attorney

Agenda Report No. II-21

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

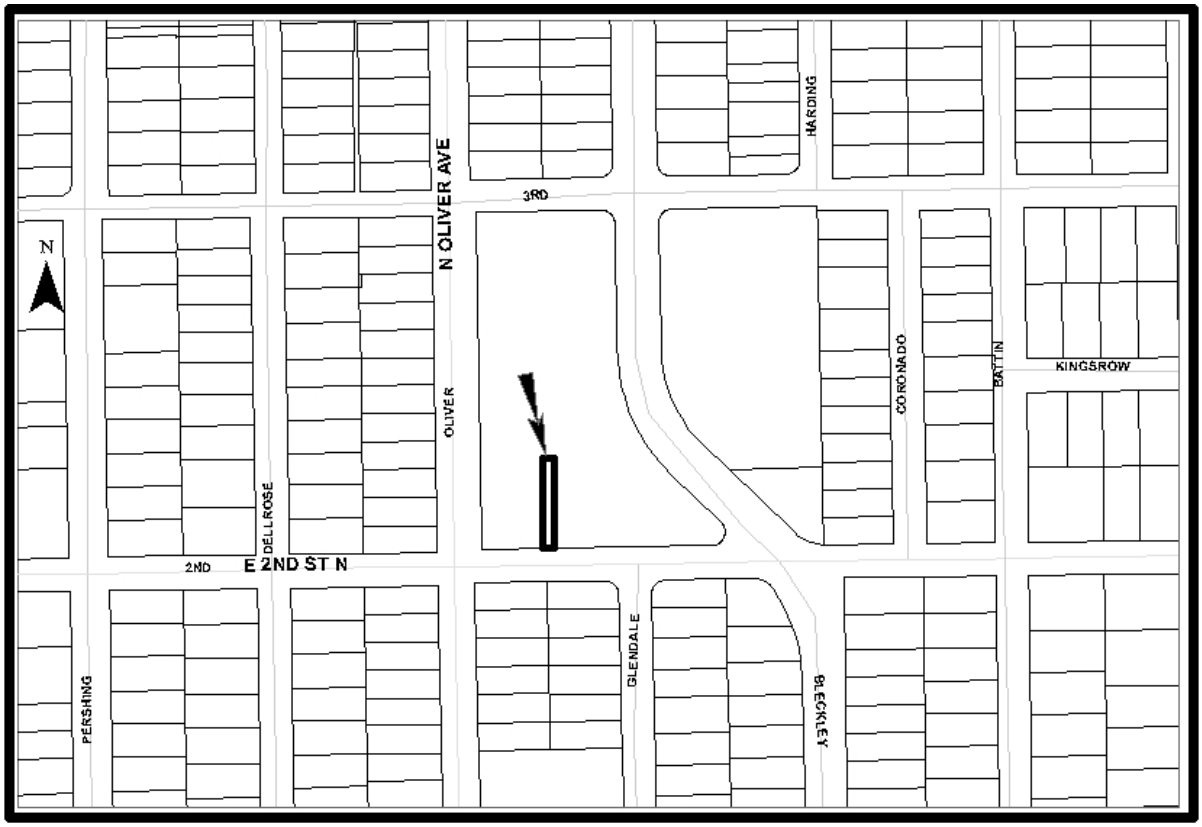
SUBJECT: VAC2014-00040 - Request to Vacate a Portion of a Platted Sewer Easement, on Property Generally Located South of Central Avenue on the East Side of Oliver Avenue and the North Side of 2nd Street (District I)

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 recommends approval of the vacation request (8-0).



Background: The applicant proposes to vacate the remaining portion of the platted north-south 20-foot wide sewer easement located in Lot 1, Block A, Robinson Junior High Addition. Public Works has approved the applicant's plans for the relocation and abandonment of a manhole, sewer line and stormwater located in the subject sewer easement; Private sewer project number PPS-2218 and private water project number PPW-1860. The Robinson Junior High Addition was recorded with the Register of Deeds April 14, 1978.

Analysis: The Metropolitan Area Planning Commission (MAPC**)** voted (8-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The original Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order

BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PORTION	**)**	
OF A PLATTED SEWER EASEMENT	**)**	
	)	
	)	
GENERALLY LOCATED SOUTH OF CENTRAL AVENUE,	**)**	**VAC2014-00040**
ON THE EAST SIDE OF OLIVER AVENUE & THE	**)**	
NORTH SIDE OF 2ND STREET	**)**	
	)	
	)	
MORE FULLY DESCRIBED BELOW	**)**	

VACATION ORDER

NOW on this 27th day of January, 2015, comes on for hearing the petition for vacation filed by United School District USD 259 (owner), praying for the vacation of the following described portion of a platted sewer easement, to-wit:

That part of the 20 foot sewer easement as granted in Robinson Junior High Addition to Wichita, Sedgwick County, Kansas described as follows: Commencing at the southwest corner of Lot 1, Block A, in said Robinson Junior High Addition; thence S89º48'20"E along the south line of said Lot 1, 108.5 feet to the southwest corner of said 20 foot sewer easement, and for a point of beginning; thence N00º00'00"E along the west line of said 20 foot sewer easement, 162.24 feet to the southwest corner of that part of said 20 foot sewer easement described and vacated in the Vacation Order designated as Case No. VAC2002-00044 and recorded in Film 2825, Page 1022; thence N90º00'00"E along the south line of the vacated part of said 20 foot sewer easement,

20.00
feet to the southeast corner of the vacated part of said 20 foot sewer easement, said southeast corner
being on the east line of said 20 foot sewer easement; thence S00º00'00"E along the east line of said 20 foot sewer easement, 162.31 feet to the southeast corner of said 20 foot sewer easement, said southeast corner being on the south line of said Lot 1; thence N89º48'20"W along the south line of said 20 foot sewer easement, and along the south line of said Lot 1, 20.00 feet to the point of beginning.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on November 13, 2014, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described portion of the platted sewer easement and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portion of the platted sewer easement should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February, 2015, ordered that the above-described portion of the platted sewer easement is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____

Sharon Dickgrafe, Interim City Attorney

Agenda Item No. II-22

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

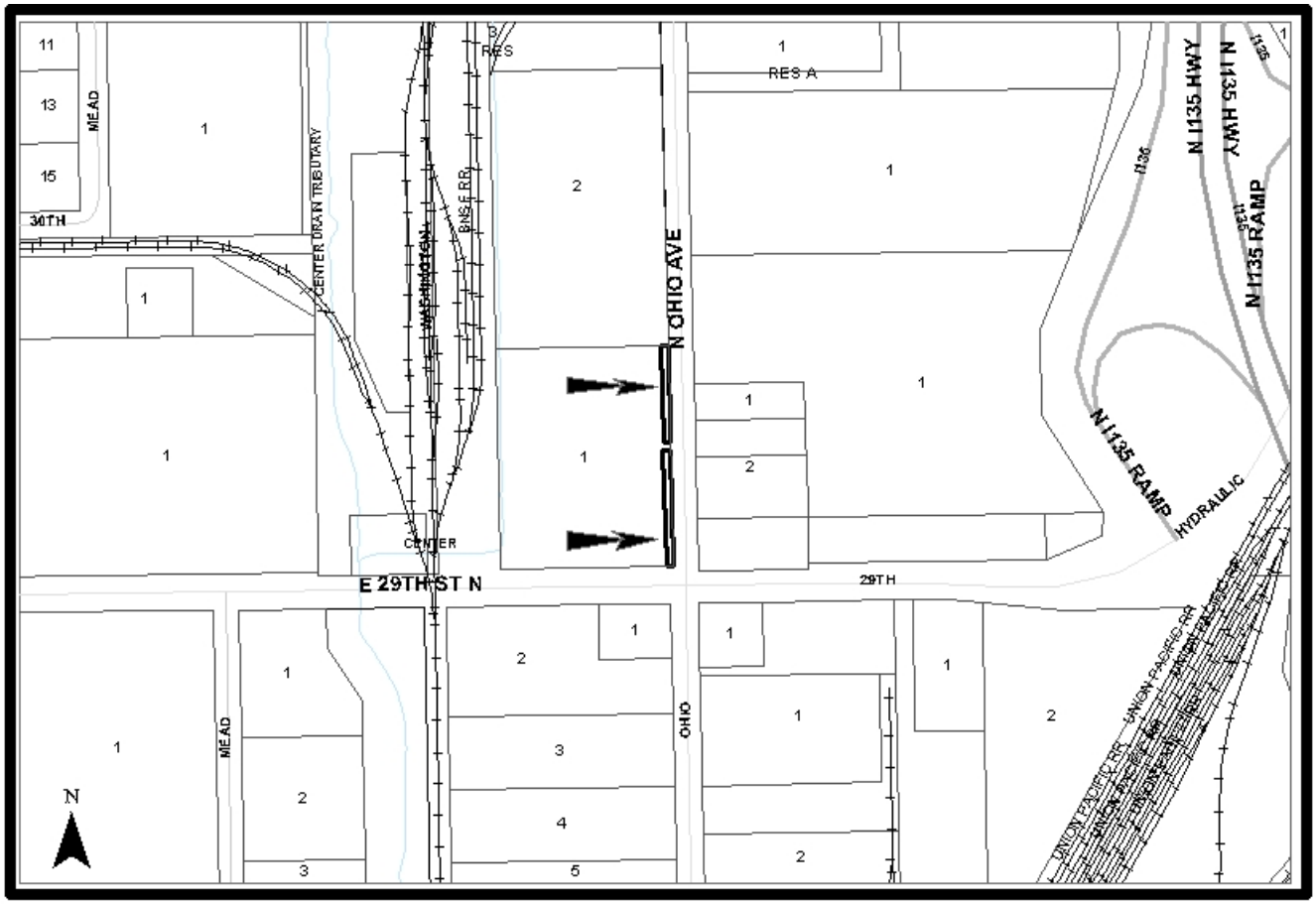
SUBJECT: VAC2014-00045 - Request to Vacate a Platted Easement on Property Generally Located on the Northwest Corner of 29th Street North and Ohio Avenue (District VI)

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 recommends approval of the vacation request (9-0).



Background: The applicant proposes to vacate all but a portion of the of the platted 20-foot wide utility easement that runs parallel to the east lot lines of Lot 1, Burlington Northern Industrial Center Addition and Ohio Avenue. A portion of the platted utility easement that will be remain around a sewer manhole located within the easement. With the exception of the sewer manhole, there are no utilities located within the described portion of the platted utility easement. The Burlington Northern Industrial Center Addition was recorded with the Register of Deeds October 17, 1984.

Analysis: The Metropolitan Area Planning Commission (MAPC**)** voted (9-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The original Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order

BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PLATTED UTILITY EASEMENT	)	
GENERALLY LOCATED ON THE NORTHWEST CORNER OF 29TH STREET NORTH & OHIO AVENUE	)	**VAC2014-00045**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 10th day of February, 2015, comes on for hearing the petition for vacation filed by CRE Holding, LLC, c/o Craig Nelson (owner), praying for the vacation of the following described portion of a platted utility easement instruments, to-wit:

The platted 20 foot utility easement lying west of and abutting the east line of Lot 1, Burlington Northern Industrial Center, Wichita, Sedgwick County, Kansas, EXCEPT the north 20.00 feet of the south 339.9 feet of said 20 foot utility easement.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on November 27, 2014, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the described portion of the platted utility easement and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portion of the platted utility easement should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February, 2015, ordered that the above-described portion of the platted utility easement is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Sharon Dickgrafe, Interim City Attorney

Agenda Item No. II-23

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

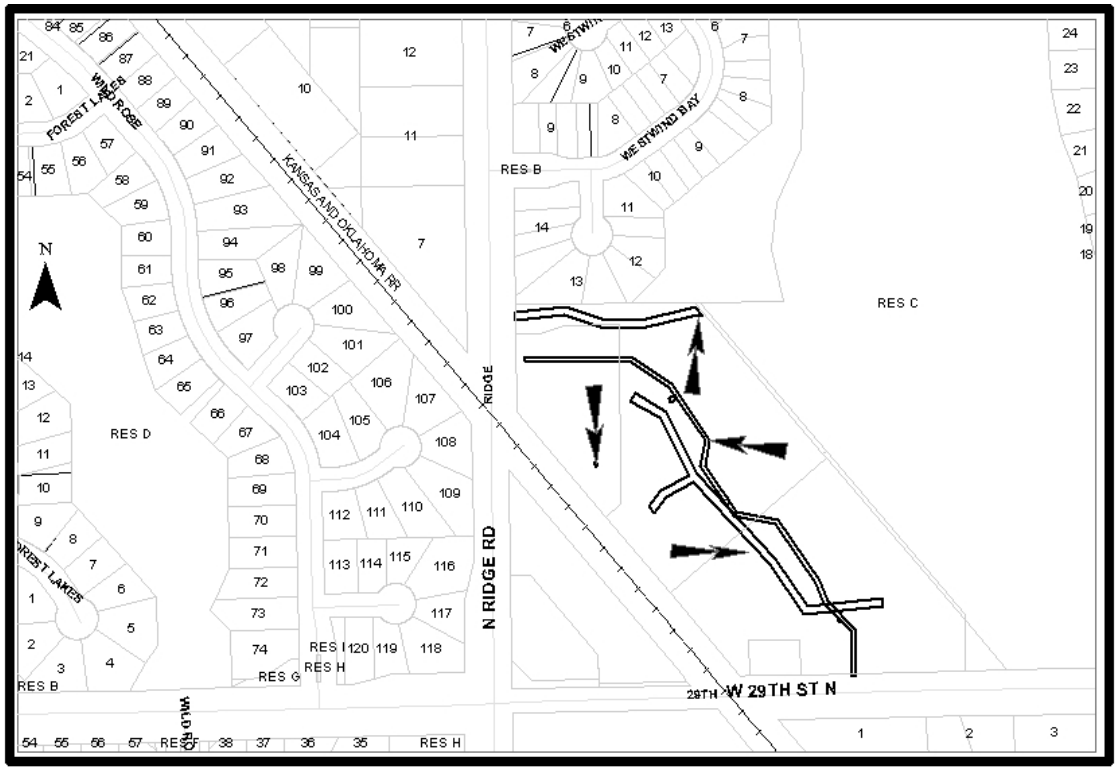
SUBJECT: VAC2014-00046 - Request to Vacate Multiple Easements Dedicated by Separate Instruments on Property Generally Located East of Ridge Road on the North Side of 29th Street North (District V)

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 recommends approval of the vacation request (9-0).



Background: The applicant proposes to vacate: the two water line easements dedicated by separate instruments recorded on Document number - Film-Page-29416578 and Document number - Film-Page 29424773; the utility easement dedicated by separate instrument recorded on Document number - Film-Page 29416580, and; the drainage easement dedicated by separate instrument recorded on Document number - Film-Page 29416578, all in Lot 1, Block 1, Ridge Port Addition. There are no utilities located within the described easements dedicated by separate instruments. An earlier vacation case, VAC2013-00007, vacated a 20-foot wide sanitary sewer easement dedicated by separate easement (Document number - Film-Page 29007660) located on the subject site; Lot 1, Block 1, Ridge Port Addition. The Ridge Port Addition was recorded with the Register of Deeds June 8, 1998.

Analysis: The Metropolitan Area Planning Commission (MAPC**)** voted (9-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The original Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order

BEFORE THE CITY COUNCIL OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF MULTIPLE EASEMENTS DEDICATED BY SEPARATE INSTRUMENTS	)	
GENERALLY LOCATED EAST OF RIDGE ROAD ON THE NORTH SIDE OF 29TH STREET NORTH	)	**VAC2014-00046**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 10th day of February, 2015, comes on for hearing the petition for vacation filed by GV Village, LLC, c/o Santo M Catanese (owner), praying for the vacation of the following described multiple easements dedicated by separate instruments, to-wit:

Legal Description for the Drainage Easement recorded 11/7/2013 as DOC.#/FLM-PG: 29416578: A 20.00 foot wide tract of land in Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas, more particularly described as follows: Commencing at the northwest corner of said Lot 1; thence S00º26'59"W along the west line of said Lot 1, 19.10 feet for a point of beginning; thence N82º43'10"E, 121.13 feet; thence S72º07'14"E, 105.79 feet; thence S88º52'03"E, 82.59 feet; thence N75º42'16"E, 125.03 feet; thence N90º00'00"E, 12.92 feet to a point on the northeast line of said Lot 1, said point being S39º09'31"E, 4.61 feet from the northeast corner of said Lot 1; thence S39º09'31"E along the northeast line of said Lot 1, 25.79 feet; thence N90º00'00"W, 26.70 feet; thence S75º42'16"W, 125.23 feet; thence N88º52'03"W, 88.24 feet; thence N72º07'14"W, 104.27 feet; thence S82º43'10"W, 119.38 feet to a point on the west line of said Lot 1; thence N00º26'59"E along the west line of said Lot 1, 20.18 feet to the point of beginning.
&

Legal Description for the Utility Easement recorded 11/7/2013 as DOC.#/FLM-PG: 29416580: A 20.00 foot wide tract of land in Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the southwest corner of said Lot 1, said southwest corner being at the intersection of the northeasterly right-of-way line of the Missouri Pacific Railroad and the north right-of-way line of 29th Street North as dedicated in said Ridge Port Addition; thence S89°58'31"E along the south line of said Lot 1, 21.02 feet; thence N00°01'29"E perpendicular to the south line of said Lot 1, 85.00 feet to a point on the

northeast line of a 20 foot utility easement as granted in said Ridge Port Addition, said point also being 70.00 feet normally distant northeasterly of the southwest line of said Lot 1, said point also being a deflection corner in the south line of the 15 foot sanitary sewer easement recorded in DOC.#/FLM-PG: 28957378; thence S89°58’31”E parallel with the south line of said Lot 1 and along the south line of said 15 foot sanitary sewer easement, 19.36 feet to a deflection corner in the south line of said 15 foot sanitary sewer easement, said deflection corner also being 85.00 feet normally distant northeasterly of the southwest line of said Lot 1; thence N39°09’31”W along the most southerly segment of the east line of said 15 foot sanitary sewer easement and parallel with the southwest line of said Lot 1, 396.60 feet for a point of beginning; thence continuing N39°09’31”W along the most southerly segment of the east line of said 15 foot sanitary sewer easement, 20.59 feet; thence N37°06’10”E, 49.07 feet; thence N61°10’14”E, 77.43 feet; thence N27°07’03”W, 155.77 feet; thence N59°03’00”W, 82.14 feet; thence N30°57’00”E, 20.00 feet; thence S59°03’00”E, 87.86 feet; thence S27°07’03”E, 169.81 feet; thence S42°53’34”E, 278.16 feet; thence S34°09’31”E, 137.41 feet; thence N84°13’23”E, 183.18 feet; thence S05°46’37”E, 20.00 feet; thence S84°13’23”W, 195.11 feet; thence N34°09’31”W, 147.81 feet; thence N42°53’34”W, 270.22 feet; thence S61°10’14”W, 75.06 feet; thence S37°06’10”W, 49.70 feet to the point of beginning.
&
Legal Description for the Water Line Easement recorded 11/7/2013 as DOC.#FLM-PG: 29416579: A 10.00 foot wide tract of land in Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the northwest corner of said Lot 1; thence S89°33’01”E along the north line of said Lot 1, 25.00 feet to the intersection with the east line of a 25 foot utility easement as granted in said Ridge Port Addition; thence S00°26’59”W along the east line of said 25 foot utility easement, 126.63 feet for a point of beginning; thence S89°32’06”E, 259.98 feet; thence S56°’39’31”E, 115.97 feet; thence S34°09’31”E, 162.45 feet; thence S10°50’29”W, 63.59 feet; thence S34°09’31”E, 136.86 feet; thence S79°09’31”E, 102.51 feet; thence S34°09’31”E, 176.86 feet; thence S22°28’31”E, 53.71 feet; thence S44°58’31”E, 99.77 feet; thence S00°01’29”W, 111.24 feet to a point on the north line of a 10 foot utility easement as granted in said Ridge Port Addition; thence N89°58’31”W along the north line of said 10 foot utility easement, 10.00 feet; thence N00°01’29”E, 107.10 feet; thence N44°58’31”W, 97.62 feet; thence N22°28’31”W, 54.68 feet; thence N34°09’31”W, 171.70 feet; thence N79°09’31”W, 102.51 feet; thence N34°09’31”W, 145.14 feet; thence N10°50’29”E, 63.59 feet; thence N34°09’31”W, 156.32 feet; thence N56°39’31”W, 111.03 feet; thence N89°32’06’W, 257.03 feet to a point on the east line of said 25 foot utility easement; thence N00°26’59”E along the east line of said 25 foot utility easement, 10.00 feet to the point of beginning.
&

Legal Description for the Water Line Easement recorded 12/17/2013 as DOC.#FLM-PG: 29424773: A tract of land in Lot 1, Block 1, Ridge Port Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the northwest corner of said Lot 1; thence S89°33’01”E along the north line of said Lot 1, 25.00 feet to the intersection with the east line of a 25 foot utility easement as granted in said Ridge Port Addition; thence S00°26’59”W along the east line of said 25 foot utility easement, 126.63 feet to a deflection corner in the Water Line Easement granted in DOC.#/FLM-PG: 29416579; thence continuing S00°26’59”W along a line of said Water Line Easement, (and along the east line of said 25 foot utility easement), 10.00 feet to a deflection corner in said Water Line Easement; thence S89°32’06”E along a line of said

Water Line Easement, 257.03 feet to a deflection corner in said Water Line Easement; thence S56°39’31”E along a line of said Water Line Easement, 111.03 feet to a deflection corner in said Water Line Easement; thence S34°09’31”E along a line of said Water Line Easement, 156.32 feet to a deflection corner in said Water Line Easement; thence S10°50’29”W along a line of said Water Line Easement, 63.59 feet to a deflection corner in said Water Line Easement; thence S34°09’31”E along a line of said Water Line Easement, 145.14 feet to a deflection corner in said Water Line Easement; thence S79°09’31”E along a line of said Water Line Easement, 102.51 feet to a deflection corner in said Water Line Easement; thence S34°09’31”E along a line of said Water Line Easement, 171.70 feet to a deflection corner in said Water Line Easement; thence S22°28’31”E along a line of said Water Line Easement, 54.68 feet to a deflection corner in said Water Line Easement; thence S44°58’31”E along a line of said Water Line Easement, 50.44 feet for a point of beginning; thence continuing S44°58’31”E along the last described line of said Water Line Easement, 10.00 feet; thence S45°01’29”W perpendicular to the last described line of said Water Line Easement, 5.00 feet; thence N44°58’31”W parallel with the last described line of said Water Line Easement, 10.00 feet; thence N45°01’29”E perpendicular to the last described line of said Water Line Easement, 5.00 feet to the point of beginning, TOGETHER with a tract of land in said Lot 1 described as follows: Commencing at the northwest corner of said Lot 1; thence S89°33’01”E along the north line of said Lot 1, 25.00 feet to the intersection with the east line of a 25 foot utility easement as granted in said Ridge Port Addition; thence S00°26’59”W along the east line of said 25 foot utility easement, 126.63 feet to a deflection corner in the Water Line Easement granted in DOC.#/FLM-PG: 29416579; thence continuing S00°26’59”W along a line of said Water Line Easement, (and along the east line of said 25 foot utility easement), 10.00 feet to a deflection corner in said Water Line Easement; thence S89°32’06”E along a line of said Water Line Easement, 257.03 feet to a deflection corner in said Water Line Easement; thence S56°39’31”E along a line of said Water Line Easement, 111.03 feet to a deflection corner in said Water Line Easement; thence S34°09’31”E along a line of said Water Line Easement, 21.78 feet for a point of beginning; thence continuing S34°09’31”E along the last described line of said Water Line Easement, 10.00 feet; thence S55°50’29”W perpendicular to the last described line of said Water Line Easement, 17.00 feet; thence N34°09’31”W parallel with the last described line of said Water Line Easement, 10.00 feet; thence N55°50’29”E perpendicular to the last described line of said Water Line Easement, 17.00 feet to the point of beginning, and TOGETHER with a tract of land in said Lot 1 described as follows: Commencing at the northwest corner of said Lot 1; thence S89°33’01”E along the north line of said Lot 1, 25.00 feet to the intersection with the east line of a 25 foot utility easement as granted in said Ridge Port Addition; thence S00°26’59”W along the east line of said 25 foot utility easement, 180.85 feet to a corner in the east line of said 25 foot utility easement, said corner also being a corner on the northeast line of a 20 foot utility easement as granted in said Ridge Port Addition; thence S39°09’31”E along the northeast line of said 20 foot utility easement, 262.27 feet for a point of beginning; thence continuing S39°09’31”E along the northeast line of said 20 foot utility easement, 10.00 feet; thence N50°50’29”E perpendicular to the northeast line of said 20 foot utility easement, 6.58 feet; thence N39°09’31”W parallel with the northeast line of said 20 foot utility easement, 10.00 feet; thence S50°50’29”W perpendicular to the northeast line of said 20 foot utility easement, 6.58 feet to the point of beginning.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on November 27, 2014, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described multiple easements dedicated by separate instruments and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described multiple easements dedicated by separate instruments should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February, 2015, ordered that the above-described multiple easements dedicated by separate instruments are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Sharon Dickgrafe, Interim City Attorney

Agenda Item No. II-24

City of Wichita
City Council Meeting
February 10, 2015

TO: Mayor and City Council

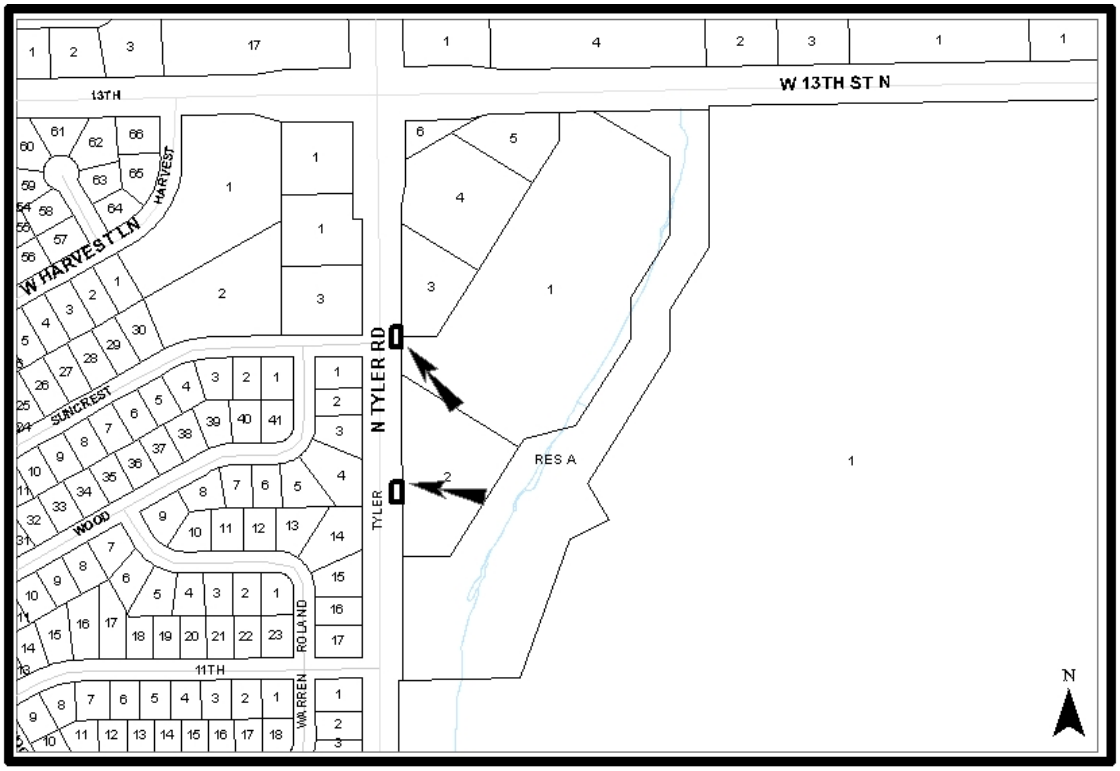
SUBJECT: VAC2014-00047 - Request to Vacate a Portion of Platted Access Control on Property Generally Located on the Southeast Corner of 13th Street North and Tyler Road (District V)

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 recommends approval of the vacation request (9-0).



Background: The applicant proposes to vacate a portion of the platted access control to shift two of the platted drives off of Lots 1 and 2, Block A, Tyler Point Addition onto Tyler Road. Tyler Road is a four-lane arterial at this location. There is no raised median or rollover median along the portion of Tyler where the vacation activity is proposed. The northern subject drive is proposed to be shifted 32 feet south. It is also proposed to go from a 50-foot wide full movement drive to a 60-foot wide full movement drive. The south drive is proposed to be shifted approximately 60 feet north. It is proposed to remain a 60-foot wide full movement drive. No utilities will be impacted by the request. The Tyler Point Addition was recorded with the Register of Deeds January 22, 2013.

Analysis: The Metropolitan Area Planning Commission (MAPC**)** voted (9-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: All improvements are to City standards and at the applicant's expense.

Legal Considerations: The Law Department has reviewed and approved, as to form, the Vacation Order. The original Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order
- A dedication of access control by separate instrument

BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PORTION OF PLATTED ACCESS CONTROL	)	
GENERALLY LOCATED ON THE SOUTHEAST CORNER OF 13TH STREET NORTH & TYLER ROAD	)	**VAC2014-00047**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 10th day of February, 2015, comes on for hearing the petition for vacation filed by Tyler Pointe LLC (owner), praying for the vacation of the following described portion of a platted access control, to-wit:

A 50 feet opening whose north line is 677 feet south of the centerline of 13th St. North and a 60 feet opening whose north line is 1080 feet south of the centerline of 13th St. North, all on the east side of Tyler Road in the Tyler Point Addition, a replat of a portion of Lot 1, Northwest High School Addition, to Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on November 27, 2014, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the described portion of the platted access control and the public will suffer no loss or inconvenience thereby.

3. A dedication of access control by separate instrument will be filed with this Vacation Order at the Sedgwick County Register of Deeds.

4. In justice to the petitioner(s), the prayer of the petition ought to be granted.

5. No written objection to said vacation has been filed with the City Clerk by any

owner or adjoining owner who would be a proper party to the petition.

8. The vacation of the described portion of the platted access control should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February, 2015, ordered that the above-described portion of the platted access control is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Sharon Dickgrafe, Interim City Attorney

DEDICATION OF ACCESS CONTROL

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Tyler Pointe, LLC, being the owners of the following described real estate in Sedgwick County, Kansas, to wit:

Lots 1 and 2, Block A, Tyler Pointe Addition

do hereby transfer and convey to the City of Wichita, all abutter's rights of access, ingress, and egress to said property from or to Tyler Road, over and across the West line of the above-described property; to have and to hold the same forever. It being understood that this conveyance is a covenant running with the land and prohibits all subsequent owners thereof and all members of the public from entering upon said property from Tyler Road, except for **one** opening on Lot 1 and one opening on Lot 2, along Tyler Road, with access along Tyler Road defined in vacation case VAC2014-00047.

Executed this 21st day of JANUARY, 2015.

Typed/printed name underneath signature
Gary L. Oborny, Manager

STATE OF KANSAS)
) SS
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this 21st day of January, 2015, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came, Gary L. Oborny, Manager, who are personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

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

TRICIA HAYES
My Appointment Expires
August 10, 2017

Tricia Hayes
Notary Public

SEAL

(My Commission Expires: 08-10-2017)

Agenda Item No. II-25

City of Wichita
City Council Meeting
February 10, 2015

TO: Wichita Housing Authority Board

SUBJECT: Section 8 Management Assessment Program (SEMAP) Certification

INITIATED BY: Housing and Community Services Department

AGENDA: Wichita Housing Authority (Consent)

Recommendation: Approve submission of the 2014 Section 8 Management Assessment Program (SEMAP) certification and authorize the necessary signatures.

Background: On October 6, 1998, the U.S. Department of Housing and Urban Development (HUD) issued the final rule for the Section 8 Management Assessment Program (SEMAP), a system designed for Public Housing Authorities (PHAs) managing Section 8 Housing Choice Voucher programs to self-assess performance, efficiency and compliance on an annual basis.

Analysis: PHAs are required to complete the self-assessment utilizing 14 specific indicators, and to submit certified results to HUD within 60 days of fiscal year end. The Wichita Housing Authority's (WHA's) fiscal year ended on December 31, 2014, so the self-assessment and certification must be submitted to HUD by no later than March 2, 2015.

Following is a list of the SEMAP indicators:

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

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

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

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

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

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

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

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

9. Annual Reexaminations (10 points): The PHA completes an annual reexamination for each tenant, as required.

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

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

12. Annual HQS Inspections (10 points): The PHA inspects each unit under contract on an annual basis, in a timely manner.

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

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

The total number of points to be awarded is 145. A PHA with a SEMAP score of at least 90% is rated as a "High Performer" and a PHA with a SEMAP score of 60-89% is rated as a "Standard Performer". A PHA with a SEMAP score of less than 60% is rated "Troubled", is subject to an onsite review by HUD and is required to develop a corrective action plan.

Based on the self-assessment, the WHA's Section 8 Housing Choice Voucher program will be rated "High Performer" for fiscal year 2014.

Financial Considerations: None.

Legal Considerations: The Law Department has reviewed the SEMAP certification document and approved it as to form.

Recommended Actions: It is recommended that the Wichita Housing Authority Board approve submission of the 2014 Section 8 Management Assessment Program (SEMAP) certification, and authorize the necessary signatures.

Attachment: SEMAP Certification.

Section 8 Management Assessment Program (SEMAP) Certification

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

OMB Approval No. 2577-0215
(exp. 11/30/2016)

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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

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

PHA Name	For PHA FY Ending (mm/dd/yyyy)	Submission Date (mm/dd/yyyy)

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

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

Performance Indicators

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

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

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

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

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

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

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

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

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

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

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

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

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

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

PHA Response **Yes** ☐ **No** ☐

Enter current FMRs and payment standards (PS)

0-BR FMR _____	1-BR FMR _____	2-BR FMR _____	3-BR FMR _____	4-BR FMR _____
PS _____	PS _____	PS _____	PS _____	PS _____

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

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

PHA Response **Yes** ☐ **No** ☐

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

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

b. Number of FSS families currently enrolled

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

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

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

PHA Response **Yes** **No**

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

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

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

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

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

or

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

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

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

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

Executive Director, signature

Date (mm/dd/yyyy) _____

Chairperson, Board of Commissioners, signature

Date (mm/dd/yyyy) _____

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

SEMAP Certification - Addendum for Reporting Data for Deconcentration Bonus Indicator

Date (mm/dd/yyyy) _____

PHA Name _____

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

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

1990 Census Poverty Rate of Principal Operating Area _____

Criteria to Obtain Deconcentration Indicator Bonus Points

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

City of Wichita
City Council Meeting
February 10, 2015

TO: Wichita Airport Authority

SUBJECT: Pratt & Whitney Engine Services, Inc. – Supplemental Agreement No. 4
1955 Midfield Road
Wichita Dwight D. Eisenhower National Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the supplemental agreement.

Background: In 1983, Pratt & Whitney Engine Services, Inc. (Pratt & Whitney) entered into a lease agreement with the Wichita Airport Authority (WAA) for construction of a 15,470 sq. ft. facility at 1955 Midfield Road. The agreement was extended in February 2008 and in May 2010. The term is set to expire on April 30, 2015. There are three, five-year renewal options remaining.

Analysis: Pratt & Whitney is desirous of exercising the first, five-year renewal option.

Financial Considerations: The facility rental rate for use of the space of 15,470 sq. ft. is $3.39 per sq. ft., which provides annual revenue of $52,443. The land rental rate is $0.4118 per sq. ft., which will result in annual revenue to the WAA of $29,480 for use of 71,588 sq. ft. of land. The land rental rate will increase five percent for every five-year period, which is consistent with the WAA's published land rental rate schedule for that portion of the campus. The combined annual revenue is $81,923, which is an approximate six percent increase compared to last year.

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

Recommendations/Actions: It is recommended that the WAA approve the supplemental agreement and authorize the necessary signatures.

Attachment: Supplemental Agreement No. 4.

SUPPLEMENTAL AGREEMENT NO. 4

By and between

THE WICHITA AIRPORT AUTHORITY
Wichita, Kansas

and

PRATT & WHITNEY ENGINE SERVICES, INC.

for

Use of Facility – 1955 Midfield Road
Wichita Mid-Continent Airport, Wichita, Kansas

THIS SUPPLEMENTAL AGREEMENT NO. 4, made and entered into as of February 10, 2015, by and between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas, hereinafter referred to as the Lessor; and PRATT & WHITNEY ENGINE SERVICES, INC., successor by merger to Pratt & Whitney Aircraft of Canada (U.S.) Ltd., hereinafter referred to as the Lessee.

WITNESSETH:

WHEREAS, Lessor and Lessee entered into a lease agreement (as amended, the "Lease") dated January 17, 1983, for the purpose of constructing a 15,470 square foot facility (the "premises") at 1955 Midfield Road, Wichita Mid-Continent Airport, Wichita, Kansas, for aviation purposes in connection with Lessee's business of a service and marketing center for aircraft engines, as such lease was amended by Supplemental Agreement No. 1 dated March 18, 2003, Supplemental Agreement No. 2 dated February 12, 2008; and Supplemental Agreement No. 3 dated May 4, 2010; and

WHEREAS, the Lessor and Lessee are now desirous of entering into this Supplemental Agreement No. 4 for the purposes of adjusting rentals and establishing renewal options.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the parties hereto agree as follows:

1. TERM

Lessee is hereby exercising the first, five (5) year option. The term of this option shall be for a five (5)-year period, from May 1, 2015 through April 30, 2020.

2. RENEWAL OPTIONS

Section 2 – Renewal Options of Supplemental No. 3, dated May 4, 2010 shall be **replaced** with the following:

Lessee shall have three (3) options to extend the term of the Lease for consecutive additional periods of five (5) years each (05/01/15 – 04/30/20, 05/01/20 – 04/30/25 and 05/01/25 – 04/30/30, respectively), provided Lessor is given written notice at least ninety (90) days prior to the end of the then current term. Each renewal shall be on the same terms and conditions as in the Lease with the exception that the rental rate for each renewal period shall be a fair market rental rate mutually agreed to between Lessor and Lessee. In the event Lessor and Lessee are unable to agree on a fair market rental rate within thirty (30) days after receipt by Lessor of Lessee's renewal notice, the same shall be established by an independent appraiser agreeable to both Lessor and Lessee.

3. FACILITY AND LAND RENT

Section 3 – Renewal Options of Supplemental No. 3, dated May 4, 2010 shall be **added** with the following:

During this extension, facility rent shall be based upon the 15,470 sq. ft. of the facility at the annual rate of three dollars and thirty-nine cents ($3.39). Therefore, the annual facility rent for the facility shall be $52,443.30, payable in monthly installments of $4,370.28,

Lessee shall pay to Lessor basic land rental for the Premises containing approximately 71,589 sq. ft. That rent shall be calculated as follows:

FIRST OPTION TERM 71,589 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
05/01/2015	-	04/30/2016	.4118	$29,480.35	$2,456.70
05/01/2016	-	04/30/2017	.4324	$30,955.08	$2,579.59
05/01/2017	-	04/30/2018	.4540	$32,501.41	$2708.45
05/01/2018		04/30/2019	.4767	$34,126.48	$2,843.87
05/01/2019	-	04/30/2020	.5005	$35,830.29	$2,985.86

Both the facility rent and land rent shall be due on the first day of each month during the term of this Supplemental Agreement No. 4.

4. OTHER TERMS

It is understood and agreed that all other terms and conditions of the existing Agreement between the parties hereto are incorporated herein and reaffirmed.

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

ATTEST:

THE WICHITA AIRPORT AUTHORITY
WICHITA, KANSAS

By _____
Karen Sublett, City Clerk

By _____
Carl Brewer, President
"LESSOR"

By _____
Victor D. White, Director of Airports

ATTEST:

PRATT & WHITNEY ENGINE SERVICES, INC.

By _____

By _____
(Name), (Title)
"LESSEE"

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

City of Wichita
City Council Meeting
February 10, 2015

TO: Wichita Airport Authority

SUBJECT: Emergency Fire Truck Repair
Wichita Dwight D. Eisenhower National Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Ratify payment of diagnostic and rebuild services to emergency equipment.

Background One of the large specialized aircraft rescue and firefighting trucks owned by the Wichita Airport Authority (WAA) experienced a major failure inside the transmission and drive train. Repair requires that the transmission and related internal components be removed and shipped to an authorized dealer and then re-installed in the unit. Competitive estimates were obtained from qualified repair vendors and Siddons-Martin Emergency Group was selected. Tear down and re-installation services have been commenced, but a diagnosis by the rebuilder was required to identify the cost of the actual repair.

Analysis: Diagnosis has taken place and rebuild of the transmission and other components is estimated to cost $82,325. It is imperative that the fire truck be brought back in-service as soon as practical to maintain proper airfield emergency response thresholds and to comply with federal regulations.

Financial Considerations: The Ground Facilities and Fleet commodity budget is able to absorb this expense for the time being and any needed budget transfers will be addressed in the revision of the 2015 budget adopted in late summer.

Legal Considerations: The procurement process has followed normal City of Wichita procedures found at City Code 2.64.020 (c) authorizing bids without advertising due to public exigency.

Recommendations/Actions: It is recommended that the WAA ratify the purchase.

Attachments: None.

City of Wichita
City Council Meeting
February 10, 2015

TO: Wichita Airport Authority

SUBJECT: Wichita Dwight D. Eisenhower National Airport
Air Capital Terminal 3 Program
Change Order No. 21

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the change order.

Background: On July 17, 2012, the Wichita Airport Authority (WAA) approved a construction contract with Key-Walbridge to construct the new airline terminal. This change order provides for a number of tenant-requested items, as well as those required to complete construction in a timely manner due to unforeseen conditions. Several of the larger items are described below:

The Transportation Security Administration (TSA) requested a change in the building security system to have a separate security system within their leased premises. This cost will be reimbursed by TSA. New and modified security signage around the Airport perimeter is added in order to comply with TSA requirements. The TSA has also requested a change in power requirements for the explosive detection system, the cost of which will be reimbursed by the TSA. Separate electric meters within tenant leaseholds for revenue purposes were to be supplied by the Airport. Due to the need to match the meters with the automated remote data collection system, the contractor will supply the meters and the remote data collection system. Additional electrical circuits will be provided in the gate areas to provide power for passenger seating improvements. Additional wireless access points will be provided to improve internet connectivity in the parking garage and rental car customer service center. Improved ventilation will be provided to elevator mechanical rooms.

Analysis: Several critical and required construction-related items need to be changed in the contract in order for work to proceed without delay to the program. A change order has been prepared for the cost of the additional work. The contract completion time has been adjusted by 34 days to account for the additional work required. The items included in this change order have been reviewed and approved by the Wichita Airport Advisory Board Change Order Review Committee.

Financial Considerations: The total cost of the additional work is a not to exceed amount of $637,480. The original contract amount is $101,500,542. This change order represents 0.63 percent of the original contract amount. Funding for this change order is included within the approved program budget.

Legal Considerations: The Law Department has reviewed and approved the change order as to form. The cumulative change order amount of 6.4 percent is within the 25 percent of contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the WAA approve Change Order No. 21 and authorize the necessary signatures.

Attachments: Change Order No. 21.

CHANGE ORDER (CO)

Change Order No.: 021

Project Name:	ACT 3 Terminal Building	**Date:**	2/10/2015
City of Wichita Project No.:	455-361-4	**To (Contractor):**	Key Walbridge Joint Venture
FAA AIP Project No.:	3-20-0088-64		

THE CONTRACT IS CHANGED AS FOLLOWS:

Give description of work. Reference Change Proposal No., Change Directive No., Change Request No., and any other documents as applicable. Your attention is directed to Article 8 and Article 10 of the General Conditions of the Contract for guidelines in pricing and documentation to be provided.

List applicable CR #, PCO #, CD # etc.	Description	Amount
162, 172, 183, 190, 191R, 193, 196, 198, 199, 202, 205, 207, 219, 220, 225, 232, 238, 242, 244, 245, 251R	SEE ATTACHED DOCUMENTATION	637,480.00
	Total:	**637,480.00**

Original Contract Award Sum:	*$101,500,542.00*
Net Change by Previous authorized Change Orders:	*$5,868,500.00*
Total Contract Sum Prior to this Change Order:	*$107,369,042.00*
Net increase/decrease in Contract Sum this Change Order:	*$637,480.00*
NEW CONTRACT SUM INCLUDING THIS CHANGE ORDER:	***$108,006,522.00***

Original Contract Time :	860	Days
Current Contract Time :	874	Days
This Change time add / deduct :	34	Days
Adjusted Contract Time :	**908**	Days

Except as modified in this agreement, all terms and conditions of the original Contract remain unchanged, in full force and effect, and are incorporated into this agreement to apply with equal force to the work described herein. This change order reflects complete and final payment for all costs for this Change including any and all schedule, field and home office overhead costs.

I hereby certify that I have reviewed and accept this Change Order in its entirety waive and release the Wichita Airport Authority (WAA) from any an all claims or cause of action arising therefore.

The undersigned Contractor has determined with regards to this Contract Change that □ the circumstances necessitating this Change in performance were not reasonably foreseeable at the time the bid was let, and that the Change does not expand the scope of work to be performed under the original Contract as signed, or that the Change Order, or that □ these conditions are not met, but the Change is in the best interest of the Wichita Airport Authority and adds value or utility that justifies WAA approval outside the existing policy.

ACCEPTED BY CONTRACTOR - Bill Lorelli	**DATE**
RESIDENT ENGINEER APPROVAL - James Armour, P.E.	**DATE**
PROGRAM MANAGER APPROVAL - Patrick McCollom, P.E.	**DATE**
DIRECTOR OF AIRPORTS APPROVAL - Victor White	**DATE**
DIRECTOR OF LAW, APPROVAL AS TO FORM - Sharon Dickgrafe	**DATE**
MAYOR APPROVAL - Carl Brewer	**DATE**
CITY CLERK ATTEST	**DATE**

Change Order No.: 021

Project Name: ACT 3 Terminal Building **Date:** 2/10/2015

City of Wichita Project No.: 455-361-4 **To (Contractor):** Key Walbridge Joint Venture

List applicable CR #, PCO #, CD # etc.	Description	Amount
TB-162	TSA requested an independent security system for all of their offices. TSA will reimburse the airport for this work.	$91,356
TB-172	Revisions to cove lighting and soffit in restroom areas	$0
TB-183	New and modified Security Signage per TSA requirements. This added and replaces signage around the entire Airport Security fence.	$99,290
TB-190	Provide larger access openings for Baggage Handling System motors, where motors are at the corners.	$720
TB-191 R	Provide steel frame protectors to four (4) overhead doors. This is to provide protection and warning to airlines during baggage handling equipment travelling in and out of building.	$6,181
TB-193	Power requirements changed per TSA from 208 volts to 480 volts to match the updated EDS units. This work is reimbursed by the TSA Grant.	$22,228
TB-196	Provide GFRG lighting shields at the coves and endcaps to conceal light fixtures and structural steel ends.	$27,148
TB-198	Building code requirements necessitate providing Ventilation and Conditioned Air to elevator mechanical rooms.	$92,003
TB-199	Additional Terrazzo Flooring to be installed in areas not originally included in pricing (TB164).	$31,062
TB-202	Revised electrical breakers and feeders serving Baggage Handling System MCP Panel to meet upgraded power requirements. This work is reimbursed by the TSA Grant.	$38,735
TB-205	Provide data and power to 111 revenue meters that can provide data collection in a remote fashion.	$22,819
TB-207	Provide two (2) additional access panels thru GFRG to VAV units and six (6) additional metal access panels in stair wells.	$2,421
TB-219	Owner was to provide 60 electric meters for tenant billing purposes. Provide these 60 meters consistent with building control system.	$81,416
TB-220	The Terminal Irrigation System was to connect to a two wire system with controller constructed by others. Other irrigation system was changed to a multi-wire system. Provide controller and all necessary connections to well pump for two wire system.	$5,694
TB-225	Clarifications/Modifications to lighting configuration in Concourse Exit	($4,723)
TB-232	Remove abandoned storm water sewer pipe and catch basin that was discovered in extended pavement limits.	$1,123
TB-238	The pile caps for the pedestrian canopy were designed and constructed after the Terminal project began. The locations of the snow melt mains conflict with canopy foundations and snow melt mains need to be relocated.	$11,168
TB-242	Add break metal in all airside restrooms to close the gap at windows where it did not match with mullions.	$2,745
TB-244 SI	Additional wireless access points and clocks for parking garage.	$26,238
TB-245	Change the size and model of the public address speakers.	$2,866
TB 251R	Additional eletrical circuits for connection to holdroom powered seating.	$76,990
CO #21	Add 34 days to Milestone #5 Substantial Completion for the above work.	$0
	TOTAL:	**$637,480**

City of Wichita
City Council Meeting
February 10, 2015

TO: Wichita Airport Authority

SUBJECT: General Services Administration – U. S. Government Lease for Real Property
Terminal Building Office Space
Wichita Dwight D. Eisenhower National Airport

INITIATED BY: Department of Airports

AGENDA: Wichita Airport Authority (Consent)

Recommendation: Approve the agreement.

Background: On November 5, 2002, the Wichita Airport Authority (WAA) approved a lease with the U.S. General Services Administration (GSA) to lease 8,626 sq. ft. of space on the second floor of the existing terminal building to the Transportation Security Administration (TSA). The original lease expired in January 2009, and a new lease was approved by the WAA in March 2009 to continue leasing the space. The lease is set to expire when the construction of office space in the new terminal building is completed and the TSA completes its move into the new facilities.

Analysis: The GSA is desirous of entering into a new lease for the construction of approximately 8,892 sq. ft. of office space in the new terminal that will house the Kansas regional offices for the TSA. The agreement includes leasing the office space for a ten-year period, with a three-year firm commitment. After the first three years, the lease can be cancelled by TSA with a 90-day written notice to the WAA.

Financial Considerations: The annual rent for office space and parking space is $205,632, plus $42,233 for janitorial, heating, electrical, plumbing and various other services provided by the Airport for the TSA. The initial combined annual revenue is $247,865. The rate for the services provided may be adjusted each year according to the annual change in the Consumer Price Index. TSA will also reimburse the WAA in a lump sum payment for the tenant improvements to be built by the Airport in the leasehold. GSA will enter into a supplemental lease agreement with the WAA once the total cost of the tenant improvements has been established. Also, at that time, a new capital project budget will be initiated to fund the improvements.

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

Recommendations/Actions: It is recommended that the WAA approve the agreement and authorize the necessary signatures.

Attachments: Agreement.

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

CATEGORY	CLAUSE NO.	48 CFR REF.	CLAUSE TITLE
GENERAL	1		SUBLETTING AND ASSIGNMENT
	2	552.270-11	SUCCESSORS BOUND
	3	552.270-23	SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT
	4	552.270-24	STATEMENT OF LEASE
	5	552.270-25	SUBSTITUTION OF TENANT AGENCY
	6	552.270-26	NO WAIVER
	7		INTEGRATED AGREEMENT
	8	552.270-28	MUTUALITY OF OBLIGATION
PERFORMANCE	9		DELIVERY AND CONDITION
	10		DEFAULT BY LESSOR
	11	552.270-19	PROGRESSIVE OCCUPANCY
	12		MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT
	13		FIRE AND CASUALTY DAMAGE
	14		COMPLIANCE WITH APPLICABLE LAW
	15	552.270-12	ALTERATIONS
	16		ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY
PAYMENT	17	52.204-7	CENTRAL CONTRACTOR REGISTRATION
	18	552.270-31	PROMPT PAYMENT
	19	552.232-23	ASSIGNMENT OF CLAIMS
	20	552.270-20	PAYMENT
	21	52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION
STANDARDS OF CONDUCT	22	52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT
	23	552.270-32	COVENANT AGAINST CONTINGENT FEES
	24	52-203-7	ANTI-KICKBACK PROCEDURES
	25	52-223-6	DRUG-FREE WORKPLACE
	26	52.203-14	DISPLAY OF HOTLINE POSTER(S)
ADJUSTMENTS	27	552.270-30	PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
	28	52-215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
	29	552.270-13	PROPOSALS FOR ADJUSTMENT
	30		CHANGES
AUDITS	31	552.215-70	EXAMINATION OF RECORDS BY GSA
	32	52.215-2	AUDIT AND RECORDS—NEGOTIATION
DISPUTES	33	52.233-1	DISPUTES

LABOR STANDARDS	34	52.222-26	EQUAL OPPORTUNITY
	35	52.222-21	PROHIBITION OF SEGREGATED FACILITIES
	36	52.219-28	POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION
	37	52.222-35	EQUAL OPPORTUNITY FOR VETERANS
	38	52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES
	39	52.222-37	EMPLOYMENT REPORTS VETERANS
SUBCONTRACTING	40	52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
	41	52.215-12	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA
	42	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS
	43	52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN
	44	52.219-16	LIQUIDATED DAMAGES—SUBCONTRACTING PLAN
	45	52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS

The information collection requirements contained in this solicitation/contract that are not required by regulation have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

1. SUBLETTING AND ASSIGNMENT (JAN 2011)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any subletting or assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

2. 552.270-11 SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

3. 552.270-23 SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT (SEP 1999)

(a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

(b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

(c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

(d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

4. 552.270-24 STATEMENT OF LEASE (SEP 1999)

(a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

(b) Letters issued pursuant to this clause are subject to the following conditions:

(1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;

(2) That the Government shall not be held liable because of any defect in or condition of the premises or building;

(3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and

(4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable pre-purchase and pre-commitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

5. 552.270-25 SUBSTITUTION OF TENANT AGENCY (SEP 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

6. 552.270-26 NO WAIVER (SEP 1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

7. INTEGRATED AGREEMENT (JUN 2012)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease. Except as expressly attached to and made a part of the Lease, neither the Request for Lease Proposals nor any pre-award communications by either party shall be incorporated in the Lease.

8. 552.270-28 MUTUALITY OF OBLIGATION (SEP 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

9. DELIVERY AND CONDITION (JAN 2011)

(a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit.

(b) The Government may elect to accept the Space notwithstanding the Lessor's failure to deliver the Space substantially complete; if the Government so elects, it may reduce the rent payments.

10. DEFAULT BY LESSOR (APR 2012)

(a) The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:

(1) Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for Acceptance of the Space within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default.

(2) After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may perform the service, provide the item, or obtain satisfaction of the requirement by its own employees or contractors. If the Government elects to take such action, the Government may deduct from rental payments its costs incurred in connection with taking the action. Alternatively, the Government may reduce the rent by an amount reasonably calculated to approximate the cost or value of the service not performed, item not provided, or requirement not satisfied, such reduction effective as of the date of the commencement of the default condition.

(3) Grounds for Termination. The Government may terminate the Lease if:

(i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or

(ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions,

and such conditions (i) or (ii) substantially impair the safe and healthful occupancy of the Premises, or render the Space unusable for its intended purposes.

(4) Excuse. Failure by the Lessor to timely deliver the Space or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:

(i) Circumstances within the Lessor's control;

(ii) Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform, regardless of the Government's knowledge of such matters;

(iii) The condition of the Property;

(iv) The acts or omissions of the Lessor, its employees, agents or contractors; or

(v) The Lessor's inability to obtain sufficient financial resources to perform its obligations.

(5) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law.

11. 552.270-19 PROGRESSIVE OCCUPANCY (SEP 1999)

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which it was substantially complete. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

12. MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (JAN 2011)

The Lessor shall maintain the Property, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge. Upon request of the LCO, the Lessor shall provide written documentation that building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards and all other requirements of this Lease, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc. The Government shall have the right, at any time after the Lease Award Date and during the term of the Lease, to inspect all areas of the Property to which access is necessary for the purpose of determining the Lessor’s compliance with this clause.

13. FIRE AND CASUALTY DAMAGE (MAR 2013)

If the building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the building in which the Premises are located are only partially destroyed or damaged, so as to render the Premises untenantable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **270 days** from the event of destruction or damage, to repair or restore the Premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the Premises within **60 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **270 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. During the time that the Premises are unoccupied, rent shall be abated. Termination of the Lease by either party under this clause shall not give rise to liability for either party.

This clause shall not apply if the event of destruction or damage is caused by the Lessor's negligence or willful misconduct.

14. COMPLIANCE WITH APPLICABLE LAW (JAN 2011)

Lessor shall comply with all Federal, state and local laws applicable to its ownership and leasing of the Property, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, State and local laws applicable to and enforceable against

it as a tenant under this lease, provided that nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by Federal law.

15. 552.270-12 ALTERATIONS (SEP 1999)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

16. ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (JAN 2011)

(a) Ten (10) working days prior to the completion of the Space, the Lessor shall issue written notice to the Government to schedule the inspection of the Space for acceptance. The Government shall accept the Space only if the construction of building shell and TIs conforming to this Lease and the approved DIDs is substantially complete, and a Certificate of Occupancy has been issued as set forth below.

(b) The Space shall be considered substantially complete only if the Space may be used for its intended purpose and completion of remaining work will not unreasonably interfere with the Government's enjoyment of the Space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed TIs to the approved DIDs, with the exception of items identified on a punchlist generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other Lease requirements.

(c) The Lessor shall provide a valid Certificate of Occupancy, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue Certificates of Occupancy or if the Certificate of Occupancy is not available, the Lessor may obtain satisfaction of this condition by obtaining the services of a licensed fire protection engineer to verify that the offered space meets all applicable local codes and ordinances to ensure an acceptable level of safety is provided. Under such circumstances, the Government shall only accept the Space without a Certificate of Occupancy if a licensed fire protection engineer determines that the offered space is compliant with all applicable local codes and ordinances.

17. 52.204-7 CENTRAL CONTRACTOR REGISTRATION (DEC 2012)

(a) Definitions. As used in this provision—

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

"Registered in the CCR database" means that—

(1) The offeror has entered all mandatory information, including the DUNS number or the DUNS+4 number, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see Subpart 4.14) into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record "Active". The offeror will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the Internet at http://fedgov.dnb.com/webform or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.
(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
(iii) Company Physical Street Address, City, State, and ZIP Code.
(iv) Company Mailing Address, City, State and ZIP Code (if separate from physical).
(v) Company Telephone Number.
(vi) Date the company was started.
(vii) Number of employees at your location.
(viii) Chief executive officer/key manager.
(ix) Line of business (industry).
(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) Offerors may obtain information on registration at https://www.acquisition.gov .

18. 552.270-31 PROMPT PAYMENT (JUN 2011)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Payment due date—*

(1) *Rental payments.* Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.

(i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

(ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

(2) *Other payments.* The due date for making payments other than rent shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) *Invoice and inspection requirements for payments other than rent.*

(1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Lease number.

(iv) Government's order number or other authorization.

(v) Description, price, and quantity of work or services delivered.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(2) The Government will inspect and determine the acceptability of the work performed or services delivered within seven days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the seven day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the seven days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) *Interest Penalty.*

(1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.

(2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.

(3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than one year. Interest penalties of less than $1.00 need not be paid.

(4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(d) *Overpayments.* If the Lessor becomes aware of a duplicate payment or that the Government has otherwise overpaid on a payment, the Contractor shall—

(1) Return the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (*e.g.,* duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected lease number; (iii) Affected lease line item or sub-line item, if applicable; and

(iii) Lessor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

19. 552.232-23 ASSIGNMENT OF CLAIMS (SEP 1999)
(Applicable to leases over $3,000.)

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as “the Act”), all amounts due or to become due under any order amounting to $1,000 or more issued by any Government agency under this contract. Any such assignment takes effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the finance office designated in the order to make payment. Unless otherwise stated in the order, payments

to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

20. 552.270-20 PAYMENT (MAY 2011)

(a) When space is offered and accepted, the amount of American National Standards Institute/Building Owners and Managers Association Office Area (ABOA) square footage delivered will be confirmed by:

(1) The Government's measurement of plans submitted by the successful Offeror as approved by the Government, and an inspection of the space to verify that the delivered space is in conformance with such plans or

(2) A mutual on-site measurement of the space, if the Contracting Officer determines that it is necessary.

(b) Payment will not be made for space which is in excess of the amount of ABOA square footage stated in the lease.

(c) If it is determined that the amount of ABOA square footage actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is: (1+CAF) x Rate per RSF = Reduction in Annual Rent

21. 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's *EFT information*. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) *Mechanisms for EFT payment*. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) *Suspension of payment*. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice

for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) *EFT and prompt payment*. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) *EFT and assignment of claims*. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to Subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) *Liability for change of EFT information by financial agent*. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) *Payment information*. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

22. 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)

(Applicable to leases over $5 million and performance period is 120 days or more.)

(a) *Definitions.* As used in this clause—

"Agent" means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

"Full cooperation"—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require—

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

"Subcontract" means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

"United States," means the 50 States, the District of Columbia, and outlying areas.

(b) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

(i) Have a written code of business ethics and conduct; and

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or

closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—

- Monitoring and auditing to detect criminal conduct;

- Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

- Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

- If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

- If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

- The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

- The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts*.

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of $5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

23. 552.270-32 COVENANT AGAINST CONTINGENT FEES (JUN 2011)

(Applicable to leases over $150,000 average net annual rental including option periods.)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

(b) *Bona fide agency,* as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(1) Bona fide employee, as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

(2) Contingent fee, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

(3) Improper influence, as used in this clause, means any influence that induces or tends to induce a *Government* employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

24. 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 2010)

(Applicable to leases over $150,000 average net annual rental including option periods.)

(a) *Definitions*.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contractor in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from—

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c) (1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(5)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(5)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excepting paragraph (c)(1), in all subcontracts under this contract which exceed $150,000.

25. 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

(Applicable to leases over $150,000 average net annual rental including option periods, as well as to leases of any value awarded to an individual.)

(a) *Definitions*. As used in this clause—

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an Offeror/Contractor that has no more than one employee including the Offeror/Contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

26. 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)

(Applicable to leases over $5 Million and performance period is 120 days or more.)

(a) *Definition.*

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	**Obtain from**
_____	_____
_____	_____

(*Contracting Officer shall insert*—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed $5,000,000, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

27. 552.270-30 PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JUN 2011)

(Applicable to leases over $150,000 average net annual rental including option periods.)

(a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

(1) Reduce the monthly rental under this lease by five percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover five percent of the rental already paid;

(2) Reduce payments for alterations not included in monthly rental payments by five percent of the amount of the alterations agreement; or

(3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.

(b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis thereof. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

28. 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (AUG 2011)

(Applicable when cost or pricing data are required for work or services over $700,000.)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—

(1) The Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) (i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the certified cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid—

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted certified cost or pricing data that were incomplete, inaccurate, or noncurrent.

29. 552.270-13 PROPOSALS FOR ADJUSTMENT (SEP 1999)

(a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.

(b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds $100,000. The proposal, including all subcontractor work, will contain at least the following detail—

(1) Material quantities and unit costs;

(2) Labor costs (identified with specific item or material to be placed or operation to be performed;

(3) Equipment costs;

(4) Worker's compensation and public liability insurance;

(5) Overhead;

(6) Profit; and

(7) Employment taxes under FICA and FUTA.

(c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding $500,000 in cost—

(1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48 CFR 15.403-4) and

(2) The Lessor's representative, all Contractors, and subcontractors whose portion of the work exceeds $500,000 must sign and return the "Certificate of Current Cost or Pricing Data" (48 CFR 15.406-2).

(d) Lessors shall also refer to 48 CFR Part 31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

30. CHANGES (MAR 2013)

(a) The LCO may at any time, by written order, direct changes to the Tenant Improvements within the Space, Building Security Requirements, or the services required under the Lease.

(b) If any such change causes an increase or decrease in Lessor's costs or time required for performance of its obligations under this Lease, whether or not changed by the order, the Lessor shall be entitled to an amendment to the Lease providing for one or more of the following:

(1) An adjustment of the delivery date;

(2) An equitable adjustment in the rental rate;

(3) A lump sum equitable adjustment; or

(4) A change to the operating cost base, if applicable.

(c) The Lessor shall assert its right to an amendment under this clause within 30 days from the date of receipt of the change order and shall submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, the pendency of an adjustment or existence of a dispute shall not excuse the Lessor from proceeding with the change as directed.

(d) Absent a written change order from the LCO, or from a Government official to whom the LCO has explicitly and in writing delegated the authority to direct changes, the Government shall not be liable to Lessor under this clause.

31. 552.215-70 EXAMINATION OF RECORDS BY GSA (FEB 1996)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after

final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding $100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

32. 52.215-2 AUDIT AND RECORDS—NEGOTIATION (OCT 2010)

(Applicable to leases over $150,000 average net annual rental including option periods.)

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) Examination *of costs*. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.

(c) Certified *cost or pricing data*. If the Contractor has been required to submit certified cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the certified cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to—

(1) The proposal for the contract, subcontract, or modification;
(2) The discussions conducted on the proposal(s), including those related to negotiating;
(3) Pricing of the contract, subcontract, or modification; or
(4) Performance of the contract, subcontract or modification.

(d) Comptroller General—

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating—

(1) The effectiveness of the Contractor’s policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in

Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and—

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable type or any combination of these;

(2) For which certified cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

33. 52.233-1 DISPUTES (JUL 2002)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding $100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of $100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

34. 52.222-26 EQUAL OPPORTUNITY (MAR 2007)

(a) *Definition*. "United States," as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to—

(i) Employment;

(ii) Upgrading;

(iii) Demotion;

(iv) Transfer;

(v) Recruitment or recruitment advertising;

(vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

35. 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

36. 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (APR 2012)
(Applicable to leases exceeding $3,000.)

(a) *Definitions*. As used in this clause—

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at http://www.sba.gov/content/table-small-business-size-standards.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it □□ is, □□ is not a small business concern under NAICS Code _____ assigned to contract number _____.

[*Contractor to sign and date and insert authorized signer's name and title*].

37. 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (SEP 2010)

(Applicable to leases over $100,000.)

(a) *Definitions*. As used in this clause—

"All employment openings" means all positions except executive and senior management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

"Armed Forces service medal veteran" means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

"Disabled veteran" means—

(1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or

(2) A person who was discharged or released from active duty because of a service-connected disability.

"Executive and senior management" means—

(1) Any employee—

(i) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

(ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(iii) Who customarily and regularly directs the work of two or more other employees; and

(iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or

(2) Any employee who owns at least a bona fide 20–percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

"Other protected veteran" means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

"Positions that will be filled from within the Contractor's organization" means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

"Qualified disabled veteran" means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

"Recently separated veteran" means any veteran during the three–year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(b) General.

(1) The Contractor shall not discriminate against any employee or applicant for employment because the individual is a disabled veteran, recently separated veteran, other protected veterans, or Armed Forces service medal veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a disabled veteran, recently separated veteran, Armed Forces service medal veteran, and other protected veteran in all employment practices including the following:

(i) Recruitment, advertising, and job application procedures.

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.

(iii) Rate of pay or any other form of compensation and changes in compensation.

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.

(v) Leaves of absence, sick leave, or any other leave.

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor.

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.

(viii) Activities sponsored by the Contractor including social or recreational programs.

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(3) The Department of Labor's regulations require contractors with 50 or more employees and a contract of $100,000 or more to have an affirmative action program for veterans. See 41 CFR Part 60-300, Subpart C.

(c) Listing openings.

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate employment service delivery system where the opening occurs. Listing employment openings with the State workforce agency job bank or with the local employment service delivery system where the opening occurs shall satisfy the requirement to list jobs with the appropriate employment service delivery system.

(2) The Contractor shall make the listing of employment openings with the appropriate employment service delivery system at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State workforce agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) *Applicability*. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(e) *Postings*.

(1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall—

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, Armed Forces service medal veterans, and other protected veterans; and

(ii) Be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

(f) *Noncompliance*. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor. This includes implementing any sanctions imposed on a contractor by the Department of Labor for violations of this clause (52.222-35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include—

(1) Withholding progress payments;

(2) Termination or suspension of the contract; or

(3) Debarment of the contractor.

(g) *Subcontracts*. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance.

38. 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)
(Applicable to leases over $15,000.)

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as—

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings.

(1) The Contractor agrees to post employment notices stating—

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

39. 52.222-37 EMPLOYMENT REPORTS VETERANS (SEP 2010)
(Applicable to leases over $100,000.)

(a) *Definitions*. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "other protected veteran," and "recently separated veteran," have the meanings given in the Equal Opportunity for Veterans clause 52.222-35.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—

(1) The total number of employees in the contractor's workforce, by job category and hiring location, who are disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans; and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by completing the Form VETS-100A, entitled "Federal Contractor Veterans' Employment Report (VETS-100A Report)."

(d) The Contractor shall submit VETS-100A Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12–month period preceding the ending date selected for the report. Contractors may select an ending date—

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

40. 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)
(Applicable to leases over $30,000.)

(a) *Definition*. "Commercially available off-the-shelf (COTS)" item, as used in this clause—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

(b) The Government suspends or debars Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of $30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

(1) Exceeds $30,000 in value; and

(2) Is not a subcontract for commercially available off-the-shelf items.

41. 52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (OCT 2010)
(Applicable if over $700,000.)

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either—

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications.

42. 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)

(Applicable to leases over $150,000 average net annual rental including option periods.)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) *Definitions*. As used in this contract—

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer that—

(1) (i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or

(2) It represents in writing that it qualifies as a small disadvantaged business (SDB) for any Federal subcontracting program, and believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SDB eligibility criteria of 13 CFR 124.1002.

"Veteran-owned small business concern" means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) (1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting the SBA. Options for contacting the SBA include—

(i) HUBZone small business database search application web page at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm; or http://www.sba.gov/hubzone;

(ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or

(iii) The SBA HUB Zone Help Desk at hubzone@sba.gov.

43. 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011) ALTERNATE III (JUL 2010)
(Applicable to leases over $650,000.)

(a) This clause does not apply to small business concerns.

(b) *Definitions*. As used in this clause—

"Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC

direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

"Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (*e.g.,* division, plant, or product line).

"Electronic Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at http://www.esrs.gov.

"Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

"Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

"Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $650,000 ($1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294 Subcontracting Report for Individual Contract in accordance with paragraph (l) of this clause. Submit the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at http://www.esrs.gov. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-

owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations; and

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the SF 294 in accordance with paragraph (l) of this clause. Ensure that its subcontractors with subcontracting plans agree to submit the SSR in accordance with paragraph (l) of this clause using the eSRS.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $150,000, indicating—

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) *The Contractor shall submit a SF 294*. The Contractor shall submit SSRs using the web-based eSRS at http://www.esrs.gov. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the U.S. or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *SF 294*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan. For prime contractors the report shall be submitted to the contracting officer, or as specified elsewhere in this contract. In the case of a subcontract with a subcontracting plan, the report shall be submitted to the entity that awarded the subcontract.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(2) *SSR*. (i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $550,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve-month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in the eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

44. 52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)

(Applicable to leases over $650,000.)

(a) *Failure to make a good faith effort to comply with the subcontracting plan*, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the

Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

45. 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (AUG 2012)
(Applicable if over $25,000.)

(a) *Definitions*. As used in this clause:

"Executive" means officers, managing partners, or any other employees in management positions.

"First-tier subcontract" means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

"Months of award" means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

"Total compensation" means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus*.

(2) *Awards of stock, stock options, and stock appreciation rights*. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified*.

(6) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information

(d) (1) *Executive compensation of the prime contractor*. As a part of its annual registration requirement in the Central Contractor Registration (CCR) database (FAR clause 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

(2) *First-teir subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (h) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of $25,000 or more, the Contractor shall report the following information at http://www.fsrs.gov for that first-tier subcontract. (The Contractor shall follow the instructions at http://www.fsrs.gov to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor.* Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of $25,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at http://www.fsrs.gov , if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than $25,000 to avoid the reporting requirements in paragraph (d).

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g) (1) If the Contractor in the previous tax year had gross income, from all sources, under $300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under $300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at http://www.fsrs.gov will be prepopulated with some information from CCR and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the CCR database information is incorrect, the contractor is responsible for correcting this information.

REPRESENTATIONS AND CERTIFICATIONS (Acquisition of Leasehold Interests in Real Property)	Solicitation Number **GS-06P-LKS-41032**	Dated **11-07-2014**

Complete appropriate boxes, sign the form, and attach to offer.

The Offeror makes the following Representations and Certifications. NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

1. 52.219-1 - SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2011)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 531190.

(2) The small business size standard is $20.5 Million in annual average gross revenue of the concern for the last 3 fiscal years.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

(1) The offeror represents as part of its offer that it [ ] is, [X] is not a small business concern.

(2) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents, for general statistical purposes, that it [ ] is, [ ] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents as part of its offer that it [ ] is, [ ] is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. [*Complete only if the offeror represented itself as a women-owned small business concern in paragraph (b)(3) of this provision.*] The offeror represents as part of its offer that—

(i) It [ ] is, [ ] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(4)(i) of this provision is accurate in reference to the WOSB concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern or concerns that are participating in the joint venture:* _____.] *Each WOSB concern participating in the joint venture shall submit a separate signed copy of the WOSB representation.*

(5) Economically disadvantaged women-owned small business (EDWOSB) concern. [*Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (b)(4) of this provision.*] The offeror represents as part of its offer that—

INITIALS: _____ & _____
LESSOR GOVERNMENT

(i) It [ ] is, [ ] is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(5)(i) of this provision is accurate in reference to the EDWOSB concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern or concerns that are participating in the joint venture:* _____.] *Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.*

(6) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents as part of its offer that it [ ] is, [ ] is not a veteran-owned small business concern.

(7) [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(6) of this provision.*] The offeror represents as part of its offer that it [ ] is, [ ] is not a service-disabled veteran-owned small business concern.

(8) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents, as part of its offer, that—

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It [ ] is, [ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture:* _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(c) *Definitions*. As used in this provision—

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) "Service-disabled veteran" means a veteran, as defined in 38 U.S.C.101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—

(i) Be punished by imposition of fine, imprisonment, or both;
(ii) Be subject to administrative remedies, including suspension and debarment; and
(iii) Be ineligible for participation in programs conducted under the authority of the Act.

2. **52.204-5 - WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)**

(a) *Definition*. "Women-owned business concern," as used in this provision, means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation*. [Complete only if the Offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representations, of this solicitation.] The Offeror represents that it [ ] is a women-owned business concern.

3. **52.222-22 - PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)**

(Applicable when the estimated value of the acquisition exceeds $10,000)

The Offeror represents that—

(a) It [ ] has, [X] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It [ ] has, [ ] has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (Approved by OMB under Control Number 1215-0072.)

4. **52.222-25 - AFFIRMATIVE ACTION COMPLIANCE (APR 1984)**

(Applicable when the estimated value of the acquisition exceeds $10,000)

The Offeror represents that—

(a) It [X] has developed and has on file, [ ] has not developed and does not have on file, at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or

(b) It [ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (Approved by OMB under Control Number 1215-0072.)

5. **552.203-72 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION) (APR 2012)**

(a) In accordance with Sections 630 and 631 of Division of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), none of the funds made available by that Act may be used to enter into a contract action with any corporation that---

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government, or

(2) Was convicted, or had an officer or agent of such corporation acting on behalf of the corporation convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation or such officer

or agent and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Contractor represents that—

(1) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(2) It is [ ] is not [ ] a corporation that was convicted, or had an officer or agent of the corporation acting on behalf of the corporation, convicted of a felony criminal violation under any Federal law within the preceding 24 months.

6. 52.203-02 - CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(Applicable when the estimated value of the acquisition exceeds the simplified lease acquisition threshold)

(a) The Offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above Victor D. White [Insert full name of person(s) in the Offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the Offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

7. 52.203-11 - CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(Applicable when the estimated value of the acquisition exceeds $100,000)

(a) *Definitions*. As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition*. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification*. The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure*. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) *Penalty*. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352.Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

8. 52.209-5 - CERTIFICATION REGARDING RESPONSIBILITY MATTERS (APR 2010)

(Applicable when the estimated value of the acquisition exceeds the simplified lease acquisition threshold)

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are [ ] are not [X] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [ ] have not [X], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are [ ] are not [X] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have [ ], have not [X], within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined*. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment*. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples*.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has [ ] has not [X], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a

business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

9. 52.204-3 - TAXPAYER IDENTIFICATION (OCT 1998)

(a) *Definitions.*

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the Offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All Offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the Offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

[X] TIN: 48-6000653
[ ] TIN has been applied for.
[ ] TIN is not required because:
[ ] Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
[ ] Offeror is an agency or instrumentality of a foreign government;

[ ] Offeror is an agency or instrumentality of the Federal government;

(e) *Type of organization.*

[ ] Sole proprietorship;
[ ] Partnership;
[ ] Corporate entity (not tax-exempt);
[ ] Corporate entity (tax-exempt);
[X] Government entity (Federal, State, or local);
[ ] Foreign government;
[ ] International organization per 26 CFR 1.6049-4;
[ ] Other _____

(f) *Common Parent.*

[X] Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
[ ] Name and TIN of common parent:

Name _____

TIN _____

10. 52.204-6 – DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the Internet at http://fedgov.dnb.com/webform or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:
(i) Company legal business name.
(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
(iii) Company physical street address, city, state and ZIP Code.
(iv) Company mailing address, city, state and ZIP Code (if separate from physical).
(v) Company telephone number.
(vi) Date the company was started.
(vii) Number of employees at your location.
(viii) Chief executive officer/key manager.
(ix) Line of business (industry).
(x) Company Headquarters name and address (reporting relationship within your entity).

11. DUNS NUMBER (JUN 2004)

Notwithstanding the above instructions, in addition to inserting the DUNS Number on the offer cover page, the Offeror shall also provide its DUNS Number as part of this submission:

DUNS # 124970641

12. CENTRAL CONTRACTOR REGISTRATION (MAY 2012)

The Central Contractor Registration (CCR) System is a centrally located, searchable database which assists in the development, maintenance, and provision of sources for future procurements. The Offeror must be registered in the CCR prior to lease award. The Offeror shall register via the Internet at https://www.acquisition.gov. To remain active, the Offeror/Lessor is required to update or renew its registration annually.

[ ] Registration Active and Copy Attached

[ ] Will Activate Registration and Submit Copy to the Government Prior to Award

OFFEROR OR AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE) Victor D. White Wichita Airport Authority 2173 Air Cargo Road Wichita, Kansas 67209 Signature	TELEPHONE NUMBER (316) 946-4700 Date

INITIALS: _____ & _____
LESSOR GOVERNMENT

SECURITY REQUIREMENTS - FACILITY SECURITY LEVEL II

THESE PARAGRAPHS CONTAIN ADDITIONAL SECURITY REQUIREMENTS, AND, UNLESS INDICATED OTHERWISE, ARE TO BE PRICED AS PART OF THE BUILDING SPECIFIC AMORTIZED CAPITAL (BSAC). WHERE THEY ARE IN CONFLICT WITH ANY OTHER REQUIREMENTS ON THIS LEASE, THE STRICTEST SHALL APPLY.

DEFINITIONS:

CRITICAL AREAS - The areas that house systems that if damaged or compromised could have significant adverse consequences for the facility, operation of the facility, or mission of the agency or its occupants and visitors. These areas may also be referred to as "limited access areas," "restricted areas," or "exclusionary zones." Critical areas do not necessarily have to be within Government-controlled space (e.g., generators, air handlers, electrical feeds which could be located outside Government-controlled space).

SENSITIVE AREAS – Sensitive areas include vaults, SCIFs, evidence rooms, war rooms, and sensitive documents areas. Sensitive areas are primarily housed within Government-controlled space.

FACILITY ENTRANCES, LOBBY, COMMON AREAS, NON-PUBLIC, AND UTILITY AREAS

FACILITY ENTRANCES AND LOBBY

EMPLOYEE ACCESS CONTROL AT ENTRANCES (SHELL)
The Lessor shall provide key or electronic access control for the entrance to this building. All Government employees, under this lease, shall be allowed access to the leased space (including after-hours access).

COMMON AREAS, NON-PUBLIC, AND UTILITY AREAS

PUBLIC RESTROOM ACCESS (SHELL)
The Government reserves the right to control access to public restrooms located within the Space.

SECURING CRITICAL AREAS (SHELL)
The Lessor shall secure areas designated as Critical Areas to restrict access:

A. Keyed locks, keycards, or similar security measures shall strictly control access to mechanical areas. Additional controls for access to keys, keycards, and key codes shall be strictly maintained. The Lessor shall develop and maintain accurate HVAC diagrams and HVAC system labeling within mechanical areas.

B. Roofs with HVAC systems shall also be secured. Fencing or other barriers may be required to restrict access from adjacent roofs based on a Government Building Security Assessment. Roof access shall be strictly controlled through keyed locks, keycards, or similar measures. Fire and life safety egress shall be carefully reviewed when restricting roof access.

C. At a minimum, Lessor shall secure building common areas including sprinkler rooms, electrical closets, telecommunications rooms.

VISITOR ACCESS CONTROL (SHELL)
Entrances are open to the public during business hours. After hours, visitor entrances are secured, and have a means to verify the identity of persons requesting access prior to allowing entry into the Space.

INTERIOR (GOVERNMENT SPACE)

DESIGNATED ENTRANCES (SHELL)
The Government shall have a designated main entrance.

IDENTITY VERIFICATION (SHELL)
The Government reserves the right to verify the identity of persons requesting access to the Space prior to allowing entry.

FORMAL KEY CONTROL PROGRAM (SHELL)
The Government reserves the right to implement a formal key control program. The Lessor shall have a means of allowing the electronic disabling of lost or stolen access media, if electronic media is used.

SITES AND EXTERIOR OF THE BUILDING

SIGNAGE

POSTING OF SIGNAGE IDENTIFYING THE SPACE AS GOVERNMENTAL (SHELL)
The Lessor shall not post sign(s) or otherwise identify the facility and parking areas as a Government, or specific Government tenant, occupied facility, including during construction, without written Government approval.

POSTING OF REGULATORY SIGNAGE (SHELL)
The Government may post or request the Lessor to post regulatory, statutory, sensitive areas and site specific signage.

LANDSCAPING

LANDSCAPING REQUIREMENTS (SHELL)
Lessor shall maintain landscaping (trees, bushes, hedges, land contour, etc,) around the facility. Landscaping shall be neatly trimmed in order to minimize the opportunity for concealment of individuals and packages/containers. Landscaping shall not obstruct the views of security guards and CCTV cameras, or interfere with lighting or IDS equipment.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (SHELL)
The Lessor shall separate from public access, restricted areas as designated by the Government, through the application of Crime Prevention Through Environmental Design (CPTED) principles by using trees, hedges, berms, or a combination of these or similar features, and by fences, walls, gates and other barriers, where feasible and acceptable to the Government.

HAZMAT STORAGE
If there is HAZMAT storage, Lessor shall locate it in a restricted area or storage container away from loading docks, entrances, and uncontrolled parking.

PLACEMENT OF RECEPTACLES, CONTAINERS, AND MAILBOXES
Trash receptacles, containers, mailboxes, vending machines, or other fixtures and/or features that could conceal packages, brief cases, or other portable containers shall be located 10 feet away from building.

SECURITY SYSTEMS

CLOSED CIRCUIT TELEVISION SYSTEM (CCTV)

LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE
The lessor shall design, install, and maintain a Closed Circuit Television (CCTV) system as described in this section. The CCTV system will support the entry control system (at entrances and exits to the space), with time lapse video recording, that will allow Government employees to view and communicate remotely with visitors before allowing access to the Space. As determined by the Government the CCTV system shall provide unobstructed coverage of designated pedestrian entrances and exits. Technical review of the proposed system shall be coordinated with the Government security representative, at the direction of the Contracting Officer, prior to installation. CCTV system testing and acceptance shall be conducted by the Government prior to occupancy. The CCTV system shall comply with the Architectural Barriers Act, section F230.0. The Government will centrally monitor the CCTV system. Government specifications are available from the Lease Contracting Officer. CCTV system components which fail or require

maintenance or which fail during testing should be serviced in accordance with the Security System Maintenance Criteria listed below.

Security System Maintenance Criteria: The Lessor, in consultation and coordination with a security provider, either internal or external, as determined by the Lease Contracting Officer, and the Government security representative, shall implement a preventive maintenance program for all security systems the Lessor has installed. Any critical component that becomes inoperable must be replaced or repaired by the Lessor within 5 business days. Critical components are those required to provide security (IDS, CCTV, access control, etc.) for a perimeter access point or critical area. "Replacement" may include implementing other temporary measures in instances where the replacement or repair is not achievable within the specified time frame (e.g. a temporary barrier to replace an inoperable pop-up vehicle barrier, etc.). Failure by the Lessor to provide sufficient replacement measures within the timeframe identified above may result in the Government's providing guard service, the cost of which must be reimbursed by the Lessor.

INTRUSION DETECTION SYSTEM (IDS)

LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE
The Lessor shall design, install, and maintain an Intrusion Detection System (IDS) as described in this section. The Government requires an IDS, which will cover perimeter entry and exit doors, and operable ground-floor windows. Basic Security-in-Depth IDS components include: magnetic door switch(s), alarm system keypad, passive infrared sensor(s) (PIR), an alarm panel (to designated monitoring center) and appropriate communication method i.e. telephone and/or Internet connection, glass-break detector, magnetic window switches or shock sensors. Technical review of the proposed system shall be coordinated with the Government security representative, at the direction of the Lease Contracting Officer, prior to installation. System testing and acceptance shall be conducted by the Government prior to occupancy.

Basic Security-in-Depth IDS shall be connected to and monitored at a central station operated by the Department of Homeland Security Megacenter. Emergency notification lists shall be coordinated with the monitoring station to include all applicable Government and lessor points of contact. Monitoring shall be designed to facilitate a real-time detection of an incident, and to coordinate an active response to an incident. The Lessor must complete the Megacenter Alarm Requirements (MAR) application process specified by the Government to meet the monitoring requirements for a functional IDS. Components which fail or require maintenance or which fail during testing shall be serviced in accordance with the Security System Maintenance Criteria listed below..

Security System Maintenance Criteria: The Lessor, in consultation and coordination with a security provider, either internal or external, as determined by the Lease Contracting Officer, and the Government security representative, shall implement a preventive maintenance program for all security systems the Lessor has installed. Any critical component that becomes inoperable must be replaced or repaired by the Lessor within 5 business days. Critical components are those required to provide security (IDS, CCTV, access control, etc.) for a perimeter access point or critical area. "Replacement" may include implementing other temporary measures in instances where the replacement or repair is not achievable within the specified time frame (e.g. a temporary barrier to replace an inoperable pop-up vehicle barrier, etc.). Failure by the Lessor to provide sufficient replacement measures within the timeframe identified above may result in the Government's providing guard service, the cost of which must be reimbursed by the Lessor.

DURESS ALARM

LESSOR PROVIDED DESIGN, INSTALLATION, AND MAINTENANCE
The Lessor shall design, install, and maintain a duress alarm system as described Technical review shall be coordinated with the Government security representative, at the direction of the Contracting Officer, prior to installation. System testing and acceptance shall be conducted by the Government prior to occupancy. This system shall comply with the Architectural Barriers Act, section F230.0.

The Lessor in consultation and coordination with the security provider and Government shall conduct security system performance testing annually. Testing must be based on established, consistent agency-specific protocols, documented and furnished to the Contracting Officer. Components which fail or require maintenance or which fail during testing should be serviced in accordance with the Security System Maintenance Criteria listed below.

Security System Maintenance Criteria: The Lessor in consultation and coordination with a security provider, either internal or external, as determined by the Lease Contracting Officer, and the Government security representative shall implement a preventive maintenance program for all security systems they have installed. Any critical component that becomes inoperable must be replaced or repaired within 5 business days. Critical components are those required to provide security (IDS, CCTV, access control,

etc.) for a perimeter access point or critical area. "Replacement" may include implementing other temporary measures in instances where the replacement or repair is not achievable within the specified time frame (e.g. a temporary barrier to replace an inoperable pop-up vehicle barrier, etc.). Failure by the Lessor to provide sufficient replacement measures within the timeframe identified above may result in the Government's providing guard service, the cost of which must be reimbursed by the Lessor.

STRUCTURE

WINDOWS

SHATTER-RESISTANT WINDOW PROTECTION
Not applicable. No exterior windows associated with this lease.

OPERATIONS AND ADMINISTRATION

LESSOR TO WORK WITH FACILITY SECURITY COMMITTEE (FSC) (SHELL)
The Lessor shall cooperate and work with the buildings Facility Security Committee (FSC) throughout the term of the lease.

ACCESS TO BUILDING INFORMATION (SHELL)
Building Information—including mechanical, electrical, vertical transport, fire and life safety, security system plans and schematics, computer automation systems, and emergency operations procedures—shall be strictly controlled. Such information shall be released to authorized personnel only, approved by the Government, by the development of an access list and controlled copy numbering. The Contracting Officer may direct that the names and locations of -Government tenants not be disclosed in any publicly accessed document or record. If that is the case, the Government may request that such information not be posted in the building directory.

Lessor shall have emergency plans and associated documents readily available in the event of an emergency.

This Lease is made and entered into between

The Wichita Airport Authority

(Lessor), whose principal place of business is

2173 South Air Cargo Road
Wichita, Kansas 67209-1958

and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

(Government), acting by and through the designated representative of the General Services Administration (GSA), upon the terms and conditions set forth herein.

Witnesseth**:** The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

Lessor hereby leases to the Government the Premises described herein, being all or a portion of the Property located at

Wichita Dwight D. Eisenhower National Airport
2277 Eisenhower Airport Parkway
Wichita, Kansas 67209-1958

and more fully described in Section 1 and Exhibit A**,** together with rights to the use of parking and other areas as set forth herein, to be used for such purposes as determined by GSA.

LEASE TERM

To Have and To Hold the said Premises with its appurtenances for the term beginning upon acceptance of the Premises as required by this Lease and continuing for a period of

10 Years, 3 Years Firm,

subject to termination and renewal rights as may be hereinafter set forth. The commencement date of this Lease, along with any applicable termination and renewal rights, shall be more specifically set forth in a Lease Amendment upon substantial completion and acceptance of the Space by the Government.

In Witness Whereof**,** the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

FOR THE LESSOR:

_____

Name: _____

Title: _____

Entity Name: _____

Date: _____

FOR THE GOVERNMENT:

_____

Name: Joseph J. Schurle

Title: Lease Contracting Officer

General Services Administration, Public Buildings Service

Date: _____

WITNESSED FOR THE LESSOR BY:

_____

Name: _____

Title: _____

Date: _____

The information collection requirements contained in this Solicitation/Contract, that are not required by the regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES (JUN 2012)

The Premises are described as follows:

A. Office and Related Space: **10,226** rentable square feet (RSF), yielding **8,892** ANSI/BOMA Office Area (ABOA) square feet (SF) of office and related Space located on the **1-2** floor(s) and known as Block(s) **A-B**, of the Building, as depicted on the floor plan(s) attached hereto as Exhibit A.

B. Common Area Factor: The Common Area Factor (CAF) is established as **1.15**. This CAF represents the conversion from ABOA to rentable square feet. This factor shall be used for purposes of rental adjustments in accordance with the Payment Clause of the General Clauses.

1.02 EXPRESS APPURTENANT RIGHTS (SEP 2013)

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Lessor's standards. Appurtenant to the Premises and included in the Lease are rights to use the following:

A. Parking: **9** parking spaces as depicted on the plan attached hereto as Exhibit B, reserved for the exclusive use of the Government, of which **0** shall be structured/inside parking spaces, and **9** shall be surface/outside parking spaces. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.

B. Antennas, Satellite Dishes, and Related Transmission Devices: (1) Space located on the roof of the Building sufficient in size for the installation and placement of telecommunications equipment, (2) the right to access the roof of the Building, and (3) use of all Building areas (e.g., chases, plenums, etc.) necessary for the use, operation, and maintenance of such telecommunications equipment at all times during the term of this Lease.

1.03 RENT AND OTHER CONSIDERATION (SEP 2013)

A. The Government shall pay the Lessor annual rent, payable in monthly installments in arrears, at the following rates:

Rent Years 1 - 10						
	RSF	**ABOA SF**	**Shell Cost**	**Operating Cost**	**Annual Parking Cost ***	**Total Annual Rent**
Block A	2,774	2,412	$75,369.58	$11,456.62	$672.00	$87,498.20
Block B	7,452	6,480	$129,590.28	$30,776.76	--	$160,367.04
Total	**10,226**	**8,892**	**$204,959.86**	**$42,233.38**	**$672.00**	**$247,865.24**

** 5 free parking spaces (secured). Additional spaces (4) at $14.00 / month / space (secured).*

B. Rent is subject to adjustment based upon a mutual on-site measurement of the Space upon acceptance, not to exceed **8,892** ABOA SF based upon the methodology outlined under the "Payment" clause of GSA Form 3517.

C. THIS SUB-PARAGRAPH HAS BEEN INTENTIONALLY DELETED

D. THIS SUB-PARAGRAPH HAS BEEN INTENTIONALLY DELETED

E. If the Government occupies the Premises for less than a full calendar month, then rent shall be prorated based on the actual number of days of occupancy for that month.

F. Rent shall be paid to Lessor by electronic funds transfer in accordance with the provisions of the General Clauses. Rent shall be payable to the Payee designated in the Lessor's Central Contractor Registration (CCR), now the System for Award Management (SAM). If the payee is different from the Lessor, both payee and Lessor must be registered in SAM.

G. Lessor shall provide to the Government, in exchange for the payment of rental and other specified consideration, the following:

1. The leasehold interest in the Property described in the paragraph entitled "The Premises."

2. All costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all costs for labor, materials, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses.

3. Performance or satisfaction of all other obligations set forth in this Lease; and all services, utilities, and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto to meet the requirements of this Lease.

H. 5 free parking spaces (secured) shall be included as part of the rent and other considerations. Additional parking spaces (4) shall be provided at a rate of **$14.00 / month / space** (secured).

1.04 THIS PARAGRAPH HAS BEEN INTENTIONALLY DELETED

1.05 TERMINATION RIGHTS (ON-AIRPORT) (SEP 2013)

A. The Government may terminate this Lease, in whole or in part, at any time during the term of this lease with **90** days' prior written notice to the Lessor if (i) regularly scheduled commercial air services cease, (ii) the airport opts to replace TSA screeners with private contractors, (iii) the checkpoint supported by the leased Space is closed, or (iv) the Government reduces its presence at the airport due to a reduction in enplanements. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

B. The Government may terminate this Lease, in whole or in part, at any time effective after the Firm Term of this Lease, by providing not less than **90** days' prior written notice to the Lessor. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

1.06 THIS PARAGRAPH HAS BEEN INTENTIONALLY DELETED

1.07 DOCUMENTS INCORPORATED IN THE LEASE (SEP 2013)

The following documents are attached to and made part of the Lease:

DOCUMENT NAME	NO. OF PAGES	EXHIBIT
FLOOR PLAN(S)	02	A
PARKING PLAN(S)	01	B
SECURITY REQUIREMENTS	05	C
GSA FORM 3517B GENERAL CLAUSES	47	--
GSA FORM 3518, REPRESENTATIONS AND CERTIFICATIONS	10	--

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1.15 OPERATING COST BASE (SEP 2013)

The parties agree, for the purpose of applying the paragraph titled "Operating Costs Adjustment," that the Lessor's base rate for operating costs shall be **($42,233.38 / annum)**.

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SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.01 DEFINITIONS AND GENERAL TERMS (SEP 2013)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

A. Appurtenant Areas. Appurtenant Areas are defined as those areas and facilities on the Property that are not located within the Premises, but for which rights are expressly granted under this Lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the Premises and express appurtenant rights.

B. Broker. If GSA awarded this Lease using a contract real estate broker, Broker shall refer to GSA's broker.

C. Building. The building(s) situated on the Property in which the Premises are located shall be referred to as the Building(s).

D. Commission Credit. If GSA awarded this Lease using a Broker, and the Broker agreed to forego a percentage of its commission to which it is entitled in connection with the award of this Lease, the amount of this credit is referred to as the Commission Credit.

E. Common Area Factor (CAF). The Common Area Factor (CAF) is a conversion factor determined by the Building owner and applied by the owner to the ABOA SF to determine the RSF for the leased Space. The CAF is expressed as a percentage of the difference between the amount of rentable SF and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% [(11,500 RSF-10,000 ABOA SF)/10,000 ABOA SF]. For the purposes of this Lease, the CAF shall be determined in accordance with the applicable ANSI/BOMA standard for the type of space to which the CAF shall apply.

F. Contract. Contract and contractor means Lease and Lessor, respectively.

G. Days. All references to “day” or “days” in this Lease shall mean calendar days, unless specified otherwise.

H. FAR/GSAR. All references to the FAR shall be understood to mean the Federal Acquisition Regulation, codified at 48 CFR Chapter 1. All references to the GSAR shall be understood to mean the GSA supplement to the FAR, codified at 48 CFR Chapter 5.

I. Firm Term/Non-Firm Term. The Firm Term is that part of the Lease term that is not subject to termination rights. The Non-Firm Term is that part of the Lease term following the end of the Firm Term.

J. Lease Term Commencement Date. The Lease Term Commencement Date means the date on which the lease term commences.

K. Lease Award Date. The Lease Award Date means the date of execution of the Lease by the LCO and the mailing or otherwise furnishing written notification of the executed Lease to the successful Offeror (and on which the parties’ obligations under the Lease begin).

L. Premises. The Premises are defined as the total Office Area or other type of Space, together with all associated common areas, described in Section 1 of this Lease, and delineated by plan in the attached exhibit. Parking and other areas to which the Government has rights under this Lease are not included in the Premises.

M. Property. The Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas) to which the Government is granted rights.

N. Rentable Space or Rentable Square Feet (RSF). Rentable Space is the area for which a tenant is charged rent. It is determined by the Building owner and may vary by city or by building within the same city. The Rentable Space may include a share of Building support/common areas such as elevator lobbies, Building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The Rentable Space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. Rentable Square Feet is calculated using the following formula for each type of Space (e.g., office, warehouse, etc.) included in the Premises: ABOA SF of Space x (1 + CAF) = RSF.

O. Space. The Space shall refer to that part of the Premises to which the Government has exclusive use, such as Office Area, or other type of Space. Parking areas to which the Government has rights under this Lease are not included in the Space.

P. Office Area. For the purposes of this Lease, Space shall be measured in accordance with the standard (Z65.1-1996) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means “the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed.” References to ABOA mean ANSI/BOMA Office Area.

Q. Working Days. Working Days shall mean weekdays, excluding Saturdays and Sundays and Federal holidays.

2.02 AUTHORIZED REPRESENTATIVES (JUN 2012)

The signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals, except to the extent that such authority may be explicitly delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its Lease Contracting Officer (LCO) by notice, without an express delegation by the prior LCO.

2.03 ALTERATIONS REQUESTED BY THE GOVERNMENT (SEP 2013)

A. The Government may request the Lessor to provide alterations during the term of the Lease. Alterations will be ordered by issuance of a Lease Amendment, GSA Form 300, Order for Supplies or Services, or, when specifically authorized to do so by the LCO, a tenant agency-approved form. The GSAM clause, 552.270-31, Prompt Payment, including its invoice requirements, shall apply to orders for alterations. All orders are subject to the terms and conditions of this Lease and may be placed by the LCO or a warranted contracting officer's representative (COR) in GSA or the tenant agency when specifically authorized to do so by the Lease Contracting Officer, subject to the threshold limitation below.

B. Orders for alterations issued by an authorized COR are limited to no more than $150,000 (LCOs are not subject to this threshold). This threshold will change according to future adjustments of the simplified acquisition threshold (see FAR 2.101). The LCO will provide the Lessor with a list of tenant agency officials authorized to place orders and will specify any limitations on the authority delegated to tenant agency officials. The tenant agency officials are not authorized to deal with the Lessor on any other matters.

C. Payments for alterations ordered by the tenant agency under the authorization described in sub-paragraph B will be made directly by the tenant agency placing the order.

2.04 WAIVER OF RESTORATION (APR 2011)

The Lessor shall have no right to require the Government to restore the Premises upon termination of the Lease, and waives all claims against the Government for waste, damages, or restoration arising from or related to (a) the Government's normal and customary use of the Premises during the term of the Lease (including any extensions thereof), as well as (b) any initial or subsequent alteration to the Premises regardless of whether such alterations are performed by the Lessor or by the Government. At its sole option, the Government may abandon property in the Space following expiration of the Lease, in which case the property will become the property of the Lessor and the Government will be relieved of any liability in connection therewith.

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2.08 ADJUSTMENT FOR VACANT PREMISES (SEP 2013)

A. If the Government fails to occupy any portion of the leased Premises or vacates the Premises in whole or in part prior to expiration of the term of the Lease, the rental rate and the base for operating cost adjustments will be reduced.

B. If no rate reduction has been established in this Lease, the rate will be reduced by that portion of the costs per ABOA SF of operating expenses not required to maintain the Space. Said reduction shall occur after the Government gives **30** calendar days' prior notice to the Lessor and shall continue in effect until the Government occupies the vacant Premises or the Lease expires or is terminated.

2.09 OPERATING COSTS ADJUSTMENT (JUN 2012)

A. Beginning with the second year of the Lease and each year thereafter, the Government shall pay annual incremental adjusted rent for changes in costs for cleaning services, supplies, materials, maintenance, trash removal, landscaping, water, sewer charges, heating, electricity, and certain administrative expenses attributable to occupancy.

B. The amount of adjustment will be determined by multiplying the base rate by the annual percent of change in the Cost of Living Index. The percent change will be computed by comparing the index figure published for the month prior to the Lease Term Commencement Date with the index figure published for the month prior which begins each successive 12-month period. For example, a Lease which commences in June of 2005 would use the index published for May of 2005, and that figure would be compared with the index published for May of 2006, May of 2007, and so on, to determine the percent change. The Cost of Living Index will be measured by the Department of Labor revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), U.S. city average, all items, (1982 to 1984 = 100) published by the Bureau of Labor Statistics. Payment will be made with the monthly installment of fixed rent. Rental adjustments will be effective on the anniversary date of the Lease; however, payment of the adjusted rental rate will become due on the first workday of the second month following the publication of the Cost of Living Index for the month prior to the commencement of each 12-month period.

C. In the event of any decreases in the Cost of Living Index occurring during the term of the occupancy under the Lease, the rental amount will be reduced accordingly. The amount of such reductions will be determined in the same manner as increases in rent provided under this paragraph.

D. If the Government exercises an option to extend the Lease term at the same rate as that of the original term, the option price will be based on the adjustment during the original term. Annual adjustments will continue.

2.10 RELOCATION RIGHTS (JUN 2012)

If it becomes necessary in the orderly development of the Airport, Lessor may require the relocation of Premises to other space at the Airport which, in the reasonable judgment of Lessor, is similar and suitable for the purposes for which this Lease is entered as such purposes are set forth herein. Should such relocation be necessary, the Lessor shall provide the Government a minimum of **120** days prior written notice. Lessor shall be responsible for all costs for such relocation, including all costs for moving furniture, office equipment, telephone and data lines, and any other costs associated with replicating necessary operational features provided in the space originally leased. The Airport shall provide such relocated Premises at the same rental rate as the original Premises, unless the new Premises are located in an area for which the Airport charges tenants a lower rate, in which event the parties shall negotiate a reduction in the rental rate.

2.11 RECITALS FOR TRANSPORTATION SECURITY ADMINISTRATION (ON-AIRPORT) (JUN 2012)

A. The Transportation Security Administration (TSA) is required, pursuant to 49 U.S.C. 40101—The Aviation and Transportation Security Act (ATSA), to oversee security measures at the **Wichita Dwight D. Eisenhower National Airport**.

B. TSA is responsible for airline passenger and baggage screening services at the Airport.

C. The U.S. General Services Administration (GSA), on behalf of TSA, leases certain facilities on the Airport premises for administrative offices and/or break rooms in support of airport passenger and baggage screening services by the TSA.

D. Space for TSA to screen passengers and baggage is expressly excluded from this Lease.

2.12 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (ON-AIRPORT) (SEP 2013)

A. The Lessor shall provide floor plans for the Space and a valid Certificate of Occupancy (C of O), issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue C of O's or if the C of O is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that verifies that the Space complies with all applicable local fire protection and life safety codes and ordinances.

B. Neither the Government's acceptance of the Premises for occupancy or acceptance of related appurtenances, nor the Government's occupancy of the Premises, shall be construed as a waiver of any requirement or right of the Government under this lease, or as otherwise prejudicing the Government with respect to any such requirement or right, or as an acceptance of any latent defect or condition.

2.13 CENTRAL CONTRACTOR REGISTRATION (SEP 2013)

The Offeror must have an active registration in the Central Contractor Registration (CCR) database, now the System for Award Management (SAM), via the Internet at https://www.acquisition.gov, prior to the Lease award and throughout the life of the Lease. To remain active, the Offeror/Lessor is required to update or renew its registration annually. The Government will not process rent payments to Lessors without an active registration in SAM. No change of ownership of the leased Premises will be recognized by the Government until the new owner registers in SAM.

2.14 SECURITY UPGRADES DUE TO IMMEDEATE THREAT (APR 2011)

The Government reserves the right, at its own expense and with its own personnel, to heighten security in the Building under Lease during heightened security conditions due to emergencies such as terrorist attacks, natural disaster, and civil unrest.

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SECTION 3 CONSTRUCTION STANDARDS AND SHELL COMPONENTS

3.01 THIS PARAGRAPH HAS BEEN INTENTIONALLY DELETED

3.02 WORK PERFORMANCE (JUN 2012)

All work in performance of this Lease shall be done by skilled workers or mechanics and shall be acceptable to the LCO. The LCO may reject the Lessor's workers 1) if such are unlicensed, unskilled, or otherwise incompetent, or 2) if such have demonstrated a history of either untimely or otherwise unacceptable performance in connection with work carried out in conjunction with either this contract or other government or private contracts.

3.03 THIS PARAGRAPH HAS BEEN INTENTIONALLY DELETED

3.04 ENVIRONMENTALLY PREFERABLE BUILDING PRODUCTS AND MATERIALS (SEP 2013)

A. The Lessor shall use environmentally preferable products and materials. The Lessor is encouraged to consider the lifecycle analysis of the product in addition to the initial cost.

B. Refer to EPA's environmentally preferable purchasing Web site, www.epa.gov/epp and USDA Bio-Preferred products Web site WWW.BIOPREFERRED.GOV. In general, environmentally preferable products and materials do one or more of the following:

1. Contain recycled material, are bio-based, are rapidly renewable (10-year or shorter growth cycle), or have other positive environmental attributes.
2. Minimize the consumption of resources, energy, and water.
3. Prevent the creation of solid waste, air pollution, or water pollution.
4. Promote the use of nontoxic substances and avoid toxic materials or processes.

C. The Lessor is encouraged to use products that are extracted and manufactured regionally.

3.05 EXISTING FIT-OUT, SALVAGED, OR REUSED BUILDING MATERIAL (JUN 2012)

A. Items and materials existing in the Premises, or to be removed from the Premises during the demolition phase, are eligible for reuse in the construction phase of the project. The reuse of items and materials is preferable to recycling them; however, items considered for reuse shall be in re-furbished condition and shall meet the quality standards set forth by the Government in this Lease. In the absence of definitive quality standards, the Lessor is responsible to confirm that the quality of the item(s) in question shall meet or exceed accepted industry or trade standards for first quality commercial grade applications.

B. The Lessor shall submit a reuse plan to the LCO. The Government will not pay for existing fixtures and other TIs accepted in place. However, the Government will reimburse the Lessor, as part of the TIA, the costs to repair or improve such fixtures or improvements identified on the reuse plan and approved by the LCO.

3.06 CONSTRUCTION WASTE MANAGEMENT (SEP 2008)

A. Recycling construction waste is mandatory for initial space alterations for TIs and subsequent alterations under the Lease.

B. Recycling construction waste means providing all services necessary to furnish construction materials or wastes to organizations which will employ these materials or wastes in the production of new materials. Recycling includes required labor and equipment necessary to separate individual materials from the assemblies of which they form a part.

C. THIS SUB-PARAGRAPH HAS BEEN INTENTIONALLY DELETED

D. The Lessor shall recycle the following items during both the demolition and construction phases of the project, subject to economic evaluation and feasibility:

1. Ceiling grid and tile
2. Light fixtures, including proper disposal of any transformers, ballasts, and fluorescent light bulbs
3. Duct work and HVAC equipment
4. Wiring and electrical equipment
5. Aluminum and/or steel doors and frames
6. Hardware
7. Drywall
8. Steel studs

9. Carpet, carpet backing, and carpet padding
10. Wood
11. Insulation
12. Cardboard packaging
13. Pallets
14. Windows and glazing materials
15. All miscellaneous metals (as in steel support frames for filing equipment)
16. All other finish and construction materials.

E. If any waste materials encountered during the demolition or construction phase are found to contain lead, asbestos, polychlorinated biphenyls (PCBs) (such as fluorescent lamp ballasts), or other harmful substances, they shall be handled and removed in accordance with Federal and state laws and requirements concerning hazardous waste.

F. In addition to providing "one time" removal and recycling of large scale demolition items such as carpeting or drywall, the Lessor shall provide continuous facilities for the recycling of incidental construction waste during the initial construction.

G. Construction materials recycling records shall be maintained by the Lessor and shall be accessible to the LCO. Records shall include materials recycled or land-filled, quantity, date, and identification of hazardous wastes.

3.07 WOOD PRODUCTS (SEP 2013)

A. For all new installations of wood products, the Lessor is encouraged to use independently certified forest products. For information on certification and certified wood products, refer to the Forest Certification Resource Center (www.certifiedwood.org), the Forest Stewardship Council United States (www.fscus.org), or the Sustainable Forestry Initiative (www.sfiprograms.org).

B. New installations of wood products used under this contract shall not contain wood from endangered wood species, as listed by the Convention on International Trade in Endangered Species. The list of species can be found at WWW.CITES.ORG/ENG/RESOURCES/SPECIES.HTML.

C. Particle board, strawboard, and plywood materials shall comply with Department of Housing and Urban Development (HUD) standards for formaldehyde emission controls. Plywood materials shall not emit formaldehyde in excess of 0.2 parts per million (ppm), and particleboard materials shall not emit formaldehyde in excess of 0.3 ppm.

D. All materials comprised of combustible substances, such as wood plywood and wood boards, shall be treated with fire retardant chemicals by a pressure impregnation process or other methods that treats the materials throughout as opposed to surface treatment.

3.08 ADHESIVES AND SEALANTS (AUG 2008)

All adhesives employed on this project (including, but not limited to, adhesives for carpet, carpet tile, plastic laminate, wall coverings, adhesives for wood, or sealants) shall be those with the lowest possible volatile organic compounds (VOC) content below 20 grams per liter and which meet the requirements of the manufacturer of the products adhered or involved. The Lessor shall use adhesives and sealants with no formaldehyde or heavy metals. Adhesives and other materials used for the installation of carpets shall be limited to those having a flash point of 140 degrees F or higher.

3.09 BUILDING SHELL REQUIREMENTS (SEP 2013)

A. The Building Shell shall be designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of Space. For pricing, fulfillment of all requirements not specifically designated as TIs, Building Specific Amortized Capital, Operating Costs, or other rent components as indicated shall be deemed included in the Shell Rent.

B. Base structure and Building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed Building shell components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, installed, and coordinated with TIs. Circulation corridors are provided as part of the base Building only on multi-tenanted floors where the corridor is common to more than one tenant. On single tenant floors, only the fire egress corridor(s) necessary to meet code is provided as part of the shell.

3.10 RESPONSIBILITY OF THE LESSOR AND LESSOR'S ARCHITECT/ENGINEER (JUN 2012)

A. The Lessor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Lessor under this contract. The Lessor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, or other services.

B. THE LESSOR REMAINS SOLELY RESPONSIBLE FOR DESIGNING, CONSTRUCTING, OPERATING, AND MAINTAINING THE LEASED PREMISES IN FULL ACCORDANCE WITH THE REQUIREMENTS OF THE LEASE. The Government retains the right to review and approve many aspects of the Lessor's design, including without limitation, review of the Lessor's design and construction drawings, shop drawings, product data, finish samples, and completed base building and TI construction. Such review and approval is intended to identify potential design flaws, to minimize

costly misdirection of effort, and to assist the Lessor in its effort to monitor whether such design and construction comply with applicable laws and satisfy all Lease requirements.

C. Neither the Government's review, approval or acceptance of, nor payment through rent of the services required under this contract, shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Lessor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Lessor's negligent performance of any of the services required under this Lease.

D. Design and construction and performance information is contained throughout several of the documents which comprise this Lease. The Lessor shall provide to space planners, architects, engineers, construction contractors, etc., all information required whether it is found in this Lease, special requirements and attachments, price lists, or design intent drawings. Reliance upon one of these documents to the exclusion of any other may result in an incomplete understanding of the scope of the work to be performed and/or services to be provided.

3.11 QUALITY AND APPEARANCE OF BUILDING (JUN 2012)

The Building in which the Premises are located shall be designed, built and maintained in good condition and in accordance with the Lease requirements. If not new or recent construction, the Building shall have undergone by occupancy, modernization, or adaptive reuse for office space with modern conveniences. The Building shall be compatible with its surroundings. Overall, the Building shall project a professional and aesthetically pleasing appearance including an attractive front and entrance way.

3.12 VESTIBULES (APR 2011)

A. Vestibules shall be provided at public entrances and exits wherever weather conditions and heat loss are important factors for consideration. In the event of negative air pressure conditions, provisions shall be made for equalizing air pressure.

B. THIS SUB-PARAGRAPH HAS BEEN INTENTIONALLY DELETED

3.13 MEANS OF EGRESS (SEP 2013)

A. The Premises and any parking garage areas shall meet the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101) or the International Code Council, International Building Code (IBC), (both current as of the Lease Award Date).

B. The Space shall have unrestrictive access to a minimum of two remote exits on each floor of Government occupancy.

C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.

D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.

E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.14 AUTOMATIC FIRE SPRINKLER SYSTEM (SEP 2013)

A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

B. For Buildings in which any portion of the Space is on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

C. For Buildings in which any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Office Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.

D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.

E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).

F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.15 FIRE ALARM SYSTEM (SEP 2013)

A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.

B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code, that was in effect on the actual date of installation.

C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).

D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.

E. If the Building's fire alarm control unit is over 25 years old as of the date of award of this Lease, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.16 ENERGY INDEPENDENCE AND SECURITY ACT (DEC 2011)

A. The Energy Independence and Security Act (EISA) establishes the following requirements for Government Leases in Buildings that have not earned the ENERGY STAR® Label conferred by the Environmental Protection Agency (EPA) within one year prior to the due date for final proposal revisions ("most recent year").

B. If this Lease was awarded under any of EISA's Section 435 statutory exceptions, the Lessor shall either:

1. Earn the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); or

2. Complete energy efficiency and conservation improvements if any, agreed to by Lessor in lieu of earning the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease).

C. If this Lease was awarded to a Building to be built or to a Building predominantly vacant as of the due date for final proposal revisions and was unable to earn the ENERGY STAR® label for the most recent year (as defined above) due to insufficient occupancy, but was able to demonstrate sufficient evidence of capability to earn the ENERGY STAR® label, then Lessor must earn the ENERGY STAR® label within 18 months after occupancy by the Government.

3.17 ELEVATORS (SEP 2013)

A. The Lessor shall provide suitable passenger and, when required by the Government, freight elevator service to any of the Premises not having ground level access. Service shall be available during the normal hours of operation specified in the in this Lease. However, one passenger and, when required by the Government, one freight elevator shall be available at all times for Government use. When a freight elevator is required by the Government, it shall be accessible to the loading areas. When possible, the Government shall be given 24-hour advance notice if the service is to be interrupted for more than 1-1/2 hours. Normal service interruption shall be scheduled outside of the Government's normal working hours. The Lessor shall also use best efforts to minimize the frequency and duration of unscheduled interruptions.

B. Code: Elevators shall conform to the current requirements of the American Society of Mechanical Engineers ASME A17.1/CSA B44, Safety Code for Elevators and Escalators (current as of the Lease Award Date). Elevators shall be provided with Phase I emergency recall operation and Phase II emergency in-car operation in accordance with ASME A17.1/CSA B44. Fire alarm initiating devices (e.g., smoke detectors) used to initiate Phase I emergency recall operation shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code. The elevators shall be inspected and maintained in accordance with the current edition of the ASME A17.2, Inspector's Manual for Elevators. Except for the reference to ASME A17.1 in ABAAS, Section F105.2.2, all elevators must meet ABAAS requirements for accessibility in Sections 407, 408, and 409 of ABAAS.

C. Safety Systems: Elevators shall be equipped with telephones or other two-way emergency communication systems. The system used shall be marked and shall reach an emergency communication location staffed 24 hours per day, 7 days per week.

D. Speed: The passenger elevators shall have a capacity to transport in 5 minutes 15 percent of the normal population of all upper floors (based on 150 SF per person). Further, the dispatch interval between elevators during the up-peak demand period shall not exceed 35 seconds.

E. Interior Finishes: Elevator cab walls shall be hardwood, marble, granite, or an equivalent pre-approved by the LCO. Elevator cab floors shall be marble, granite, terrazzo, or an equivalent pre-approved by the LCO.

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3.20 DEMOLITION (JUN 2012)

The Lessor shall remove existing abandoned electric, telephone, and data cabling and devices, as well as any other improvements or fixtures in place to accommodate the Government's requirements. Any demolition of existing improvements that is necessary to satisfy the Government's layout shall be done at the Lessor's expense.

3.21 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.22 CEILINGS (SEP 2013)

A complete acoustical ceiling system (which includes grid and lay-in tiles or other Building standard ceiling system as approved by the LCO) throughout the Space and Premises shall be required. The acoustical ceiling system shall be furnished, installed, and coordinated with TIs.

A. Ceilings shall be at a minimum 9 feet and 0 inches and no more than 12 feet and 0 inches measured from floor to the lowest obstruction. Areas with raised flooring shall maintain these ceiling-height limitations above the finished raised flooring. Bulkheads and hanging or surface mounted light fixtures which impede traffic ways shall be avoided. Ceilings shall be uniform in color and appearance throughout the Space, with no obvious damage to tiles or grid.

B. Prior to closing the ceiling, the Lessor shall coordinate with the Government for the installation of any items above the ceiling.

C. Should the ceiling be installed in the Space prior to construction of the TIs, then the Lessor shall be responsible for all costs in regard to the disassembly, storage during construction, and subsequent re-assembly of any of the ceiling components which may be required to complete the TIs. The Lessor shall also bear the risk for any damage to the ceiling or any components thereof during the construction of the TIs.

D. Ceilings shall be a flat plane in each room and shall be suspended and finished as follows unless an alternate equivalent is pre-approved by the LCO:

1. Restrooms. Plastered or spackled and taped gypsum board.

2. Offices and conference rooms. Mineral and acoustical tile or lay in panels with textured or patterned surface and tegular edges or an equivalent pre-approved by the LCO. Tiles or panels shall contain a minimum of 30% recycled content.

3. Corridors and eating/galley areas. Plastered or spackled and taped gypsum board or mineral acoustical tile.

3.23 EXTERIOR AND COMMON AREA DOORS AND HARDWARE (SEP 2013)

A. Exterior Building doors and doors necessary to the lobbies, common areas, and core areas shall be required. This does not include suite entry or interior doors specific to TIs.

B. Exterior doors shall be weather tight and shall open outward. Hinges, pivots, and pins shall be installed in a manner which prevents removal when the door is closed and locked. These doors shall have a minimum clear opening of 32" clear wide x 80" high (per leaf). Doors shall be heavy duty, flush, (1) hollow steel construction, (2) solid core wood, or (3) insulated tempered glass. As a minimum requirement, hollow steel doors shall be fully insulated, flush, #16-gauge hollow steel. Solid-core wood doors and hollow steel doors shall be at least 1-3/4 inches thick. Door assemblies shall be of durable finish and shall have an aesthetically pleasing appearance acceptable to the LCO. The opening dimensions and operations shall conform to the governing building, fire safety, accessibility, and energy codes and/or requirements. Fire door assemblies shall be listed and labeled. Labels on fire door assemblies shall be maintained in a legible condition. Fire door assemblies and their accompanying hardware, including frames and closing devices shall be installed in accordance with the requirements of NFPA 80, Standard for Fire Doors and Other Opening Protectives.

C. Exterior doors and all common area doors shall have door handles or door pulls with heavyweight hinges. All doors shall have corresponding doorstops (wall or floor mounted) and silencers. All public use doors and restroom doors shall be equipped with kick plates. All doors shall have automatic door closers. All Building exterior doors shall have locking devices installed to reasonably deter unauthorized entry.

3.24 DOORS: IDENTIFICATION (APR 2011)

All signage required in common areas unrelated to tenant identification shall be provided and installed by the Lessor.

3.25 WINDOWS (APR 2011)

A. Office Space shall have windows in each exterior bay unless waived by the LCO.

B. All windows shall be weather tight. Operable windows that open shall be equipped with locks. Off-street, ground-level windows and those accessible from fire escapes, adjacent roofs, and other structures that can be opened must be fitted with a sturdy locking device. Windows accessible from fire escapes must be readily operable from the inside of the Building.

B. Terrazzo, unglazed ceramic tile, recycled glass tile, and/or quarry tile shall be used in all restroom and service areas of Government-occupied floors.

C. Any alternate flooring must be pre-approved by the LCO.

D. The costs for cyclical carpet replacement requirements as outlined in Section 6 shall be included in the shell rent.

3.33 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office Space.

3.34 BUILDING SYSTEMS (APR 2011)

Whenever requested, the Lessor shall furnish to GSA as part of shell rent, a report by a registered professional engineer(s) showing that the Building and its systems as designed and constructed will satisfy the requirements of this Lease.

3.35 ELECTRICAL (JUN 2012)

A. The Lessor shall be responsible for meeting the applicable requirements of local codes and ordinances. When codes conflict, the more stringent standard shall apply. Main service facilities shall be enclosed. The enclosure may not be used for storage or other purposes and shall have door(s) fitted with an automatic deadlocking latch bolt with a minimum throw of 1/2 inch. Main distribution for standard office occupancy shall be provided at the Lessor's expense. All floors shall have 120/208 V, 3-phase, 4-wire with bond, 60 hertz electric service available. In no event shall such power distribution (not including lighting and HVAC) for the Space fall below 4 watts per ABOA SF.

B. Main power distribution switchboards and distribution and lighting panel boards shall be circuit breaker type with copper buses that are properly rated to provide the calculated fault circuits. All power distribution panel boards shall be supplied with separate equipment ground buses. All power distribution equipment shall be required to handle the actual specified and projected loads and 10 percent spare load capacity. Distribution panels are required to accommodate circuit breakers for the actual calculated needs and 10 percent spare circuits that will be equivalent to the majority of other circuit breakers in the panel system. Fuses and circuit breakers shall be plainly marked or labeled to identify circuits or equipment supplied through them.

C. Convenience outlets shall be installed in accordance with NFPA Standard 70, National Electrical Code, or local code, whichever is more stringent. The Lessor shall provide duplex utility outlets in restrooms, corridors, and dispensing areas.

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3.37 PLUMBING (JUN 2012)

The Lessor shall include the cost of plumbing in common areas. Hot and cold water risers and domestic waste and vent risers, installed and ready for connections that are required for TIs, shall be included in the shell rent.

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3.39 RESTROOMS (ON-AIRPORT) (JUN 2012)

Government employees shall have access to all public restroom facilities for men and women in the Airport terminal at all times without additional payment.

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3.42 HEATING, VENTILATION, AND AIR CONDITIONING - SHELL (SEP 2013)

A. Central HVAC systems shall be installed and operational, including, as appropriate, main and branch lines, VAV boxes, dampers, flex ducts, and diffusers, for an open office layout, including all Building common areas. The Lessor shall provide conditioned air through medium pressure duct work at a rate of .75 cubic feet per minute per ABOA SF and systems shall be designed with sufficient systems capacity to meet all requirements in this Lease.

B. Areas having excessive heat gain or heat loss, or affected by solar radiation at different times of the day, shall be independently controlled.

C. Equipment Performance. Temperature control for office Spaces shall be provided by concealed central heating and air conditioning equipment. The equipment shall maintain Space temperature control over a range of internal load fluctuations of plus 0.5 W/SF to minus 1.5 W/SF from initial design requirements of the tenant.

D. Ductwork Re-use and Cleaning. Any ductwork to be reused and/or to remain in place shall be cleaned, tested, and demonstrated to be clean in accordance with the standards set forth by NADCA. The cleaning, testing, and demonstration shall occur immediately prior to Government occupancy to avoid contamination from construction dust and other airborne particulates.

E. During working hours in periods of heating and cooling, ventilation shall be provided in accordance with the latest edition of American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) Standard 62.1, Ventilation for Acceptable Indoor Air Quality.

F. Air filtration shall be provided and maintained with filters having a minimum efficiency rating as determined by the latest edition of ASHRAE Standard 52.2, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. Pre-filters shall have a Minimum Efficiency Reporting Value (MERV) efficiency of 8. Final filters shall have a MERV efficiency of 13.

G. Restrooms shall be properly exhausted, with a minimum of 10 air changes per hour.

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3.44 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (ON-AIRPORT) (SEP 2013)

A. The Government may elect to contract its own telecommunications (voice, data, video, Internet, or other emerging technologies) service in the Space. The Government may contract with one or more parties to have inside wiring (or other transmission medium) and telecommunications equipment installed.

B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space. If the existing Building wiring is insufficient to handle the transmission requirements of the Government's designated telecommunications providers, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.

C. The Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas (high frequency, mobile, microwave, satellite, or other emerging technologies), subject to weight and wind load conditions, to roof, parapet, or Building envelope as required.

3.45 LIGHTING: INTERIOR AND PARKING - SHELL (SEP 2013)

NOTE: FOR PRICING ESTIMATING PURPOSES, FIXTURES WILL BE INSTALLED AT THE AVERAGE RATIO OF 1 FIXTURE PER 80 ABOA SF.

A. INTERIOR FIXTURES**:** High efficiency T-8, T-5, or LED light fixtures (and associated ballasts or drivers) shall be installed as either ceiling grid or pendant mounted for an open-office plan. Ceiling grid fixtures shall be either 2' wide by 4' long or 2' wide by 2' long. Lessor shall provide, as part of Shell Rent, a minimum overall lighting fixture efficiency of 85 percent. Lamps shall maintain a uniform color level throughout the lease term.

B. LIGHTING LEVELS**:** Fixtures shall have a minimum of two tubes and shall provide 50 foot-candles at desktop level (30" above finished floor) with a maximum uniformity ratio of 1.5:1. Lessor shall provide, as part of Shell Rent, 10 average foot-candles in all other Building areas within the Premises with a uniformity ratio of 4:1. Emergency egress lighting levels shall be provided in accordance with the local applicable building codes (but not less than 1 foot-candle) by either an onsite emergency generator or fixture mounted battery packs.

C. POWER DENSITY:

Existing Buildings: The maximum fixture power density shall not exceed 1.4 watts per ABOA SF.
New Construction: The maximum fixture power density shall not exceed 1.1 watts per ABOA SF.

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3.47 ENERGY EFFICIENCY AND CONSERVATION FOR NEW CONSTRUCTION (SEP 2010)

A. All new construction shall achieve an Energy Star label within 18 months after occupancy by the Government.

B. To earn the Energy Star Label, a Building owner or representative must follow the instructions on the Energy Star Web site at http://www.energystar./eslabel.

C. The Lessor is encouraged to purchase at least 50 percent of the Government tenant's electricity from renewable sources.

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3.52 INDOOR AIR QUALITY DURING CONSTRUCTION (SEP 2013)

A. The Lessor shall provide to the Government material safety data sheets (MSDS) or other appropriate documents upon request, but prior to installation or use for the following products, including but not limited to, adhesives, caulking, sealants, insulating materials, fireproofing or fire stopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finishes for wood surfaces, janitorial cleaning products, and pest control products.

B. The LCO may eliminate from consideration products with significant quantities of toxic, flammable, corrosive, or carcinogenic material and products with potential for harmful chemical emissions. Materials used often or in large quantities will receive the greatest amount of review.

C. All MSDS shall comply with Occupational Safety and Health Administration (OSHA) requirements. The Lessor and its agents shall comply with all recommended measures in the MSDS to protect the health and safety of personnel.

D. To the greatest extent possible, the Lessor shall sequence the installation of finish materials so that materials that are high emitters of volatile organic compounds (VOCs) are installed and allowed to cure before installing interior finish materials, especially soft materials that are woven, fibrous, or porous in nature, that may adsorb contaminants and release them over time.

E. Where demolition or construction work occurs adjacent to occupied Space, the Lessor shall erect appropriate barriers (noise, dust, odor, etc.) and take necessary steps to minimize interference with the occupants. This includes maintaining acceptable temperature, humidity, and ventilation in the occupied areas during window removal, window replacement, or similar types of work.

F. HVAC during Construction: If air handlers are used during construction, the Lessor shall provide filtration media with a MERV of 8 at each return air grill, as determined by the latest edition of ASHRAE Standard 52.2, Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size. The permanent HVAC system may be used to move both supply and return air during the construction process only if the following conditions are met:

1. A complete air filtration system with 60 percent efficiency filters is installed and properly maintained;
2. No permanent diffusers are used;
3. No plenum type return air system is employed;
4. The HVAC duct system is adequately sealed to prevent the spread of airborne particulate and other contaminants; and
5. Following the Building "flush out," all duct systems are vacuumed with portable high-efficiency particulate arrestance (HEPA) vacuums and documented clean in accordance with National Air Duct Cleaners Association (NADCA) specifications.

G. Flush-Out Procedure:

1. A final flush-out period of 72 hours minimum is required after installation of all interior finishes and before occupancy of the Space. The Lessor shall ventilate 24 hours a day, with new filtration media at 100% outdoor air (or maximum outdoor air while achieving a relative humidity not greater than 60%).

2. After the 3-day period the Space may be occupied; however, the flush-out must continue for 30 days using the maximum percentage of outdoor air consistent with achieving thermal comfort and humidity control.

3. Any deviation from this ventilation plan must be approved by the LCO.

4. The Lessor is required to provide regularly occupied areas of the Space with new air filtration media before occupancy that provides a MERV of 13 or better.

5. During construction, meet or exceed the recommended design approaches of the Sheet Metal and Air Conditioning National Contractors Association (SMACNA) IAQ Guideline for Occupied Buildings Under Construction, 1995, Chapter 3.

6. Protect stored onsite and installed absorptive materials from moisture damage.

3.53 SYSTEMS COMMISSIONING (APR 2011)

The Lessor shall incorporate commissioning requirements to verify that the installation and performance of energy consuming systems meet the Government's project requirements. The commissioning shall cover only work associated with TIs or alterations or at a minimum: heating, ventilating, air conditioning and refrigeration (HVAC&R) systems and associated controls, lighting controls, and domestic hot water systems.

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SECTION 4 DESIGN, CONSTRUCTION, AND POST AWARD ACTIVITIES

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4.07 CONSTRUCTION SCHEDULE AND INITIAL CONSTRUCTION MEETING (APR 2011)

The Lessor shall furnish a detailed construction schedule (such as Critical Path Method) to the Government within **10** Working Days of issuance of the NTP. Such schedule shall also indicate the dates available for Government contractors to install telephone/data lines or equipment, if needed. Within **5** Working Days of NTP, the Lessor shall initiate a construction meeting. The Lessor will have contractor representatives including its architects, engineers, general contractor and sub-contractor representatives in attendance. The Lessor shall keep meeting minutes of discussion topics and attendance.

4.08 PROGRESS REPORTS (JUN 2012)

After start of construction, the Lessor shall submit to the LCO written progress reports at intervals of **10** Working Days. Each report shall include information as to the percentage of the work completed by phase and trade; a statement as to expected completion and occupancy dates; changes introduced into the work; and general remarks on such items as material shortages, strikes, weather, etc, that may affect timely completion. In addition, at the Government's discretion, the Lessor shall conduct meetings every two weeks to brief Government personnel and/or contractors regarding the progress of design and construction of the Space. The Lessor shall be responsible for taking and distributing minutes of these meetings.

4.09 ACCESS BY THE GOVERNMENT PRIOR TO ACCEPTANCE (SEP 2013)

The Government shall have the right to access any space within the Building during construction for the purposes of performing inspections or installing Government furnished equipment. The Government shall coordinate the activity of Government contractors with the Lessor to minimize conflicts with and disruption to other contractors on site. Access shall not be unreasonably denied to authorized Government officials including, but not limited to, Government contractors, subcontractors, or consultants acting on behalf of the Government on this project.

4.10 CONSTRUCTION INSPECTIONS (APR 2011)

A. The LCO or the LCO's designated technical representative may periodically inspect construction work to review compliance with Lease requirements and approved DIDs.

B. Periodic reviews, witnessing of tests, and inspections by the Government shall not constitute approval of the Lessor's apparent progress toward meeting the Government's objectives but are intended to discover any information which the LCO may be able to call to the Lessor's attention to prevent costly misdirection of effort. The Lessor shall remain responsible for designing, constructing, operating, and maintaining the Building in full accordance with the requirements of the Lease.

4.11 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (SEP 2013)

A. **10** Working Days prior to the completion of the Space, the Lessor shall issue written notice to the Government to schedule the inspection of the Space for acceptance. The Government shall accept the Space only if the construction of Building shell and TIs conforming to this Lease and the approved DIDs is substantially complete, a Certificate of Occupancy (C of O) has been issued as set forth below, and the Building improvements necessary for acceptance as described in the paragraph "Building Improvements" are completed.

B. The Space shall be considered substantially complete only if the Space may be used for its intended purpose, and completion of remaining work will not interfere unreasonably with the Government's enjoyment of the Space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed TIs to the approved DIDs, with the exception of items identified on a punch list generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other Lease requirements.

C. The Lessor shall provide a valid C of O, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue C of O's or if the C of O is not available, the Lessor may satisfy this condition by providing a report from a licensed fire protection engineer indicating the Space and Building are compliant with all fire protection and life safety-related requirements of this Lease.

D. The Government will not be required to accept space prior to the schedule outlined in this Lease.

4.12 LEASE TERM COMMENCEMENT DATE AND RENT RECONCILIATION (JUN 2012)

At acceptance, the Space shall be measured in accordance with the standards set forth in this Lease to determine the total ABOA SF in the Space. The rent for the Space will be adjusted based upon the measured ABOA square footage as outlined under the Payment clause of the General Clauses. At acceptance, the Lease term shall commence. The Lease Term Commencement Date, final measurement of the Premises, reconciliation of the annual rent, and amount of Commission Credit, if any, shall be memorialized by Lease Amendment.

4.13 AS-BUILT DRAWINGS (JUN 2012)

Not later than **30** days after the acceptance of the Space, the Lessor, at Lessor's expense, shall furnish to the Government a complete set of Computer Aided Design (CAD) files of as-built floor plans showing the Space under Lease, as well as corridors, stairways, and core areas. The plans shall have been generated by a CAD program which is compatible with the latest release of AutoCAD. The required file extension is ".DWG." Clean and purged files shall be submitted on CD-ROM. They shall be labeled with Building name, address, list of drawing(s), date of the drawing(s), and Lessor's architect and architect's phone number. The Lessor's operator shall demonstrate the submission on GSA equipment, if requested by the LCO.

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SECTION 5 TENANT IMPROVEMENT COMPONENTS

5.01 TENANT IMPROVEMENT REQUIREMENTS (SEP 2013)

The TIs shall be designed, constructed, and maintained in accordance with the standards set forth in this Lease. For pricing, only those requirements designated as TIs within this section, or designated as TIs within the attached agency requirements and Security Requirements, shall be deemed to be TI costs.

5.02 FINISH SELECTIONS (JUN 2012)

The Lessor must consult with the Government prior to developing a minimum of **3** finish options to include coordinated samples of finishes for all interior elements such as paint, wall coverings, base coving, carpet, window treatments, laminates, and flooring. All samples provided must comply with specifications set forth elsewhere in this Lease. All required finish option samples must be provided at no additional cost to the Government within **10** Working Days after initial submission of DIDs. GSA must deliver necessary finish selections to the Lessor within **10** Working Days after receipt of samples. The finish options must be approved by GSA prior to installation. The Lessor may not make any substitutions after the finish option is selected.

5.03 WINDOW COVERINGS (JUN 2012)

A. Window Blinds. All exterior windows shall be equipped with window blinds in new or like new condition, which shall be provided as part of the TIs. The blinds may be aluminum or plastic vertical blinds, horizontal blinds with aluminum slats of one-inch width or less, solar fabric roller shades, or an equivalent product pre-approved by the Government. The window blinds shall have non-corroding mechanisms and synthetic tapes. Color selection will be made by the Government.

B. Draperies:

1. If draperies are required, they shall be part of the TIs and the following minimum specifications shall apply:

a. Fabrics shall be lined with either white or off-white plain lining fabric suited to the drapery fabric weight. Draperies shall be floor, apron, or sill length, as specified by the Government, and shall be wide enough to cover window and trim. Draperies shall be hung with drapery hooks on well-anchored heavy duty traverse rods. Traverse rods shall draw from the center, right, or left side.

b. Construction. Any draperies to be newly installed shall be made as follows:

i. Fullness of 100 percent, including overlap, side hems, and necessary returns;
ii. Double headings of 4 inches turned over a 4-inch permanently finished stiffener;
iii. Doubled side hems of 1-1/2 inches; 4-inch doubled and blind stitched bottom hems;
iv. Three-fold pinch pleats;
v. Safety stitched intermediate seams;
vi. Matched patterns;
vii. Tacked corners; and,
viii. No raw edges or exposed seams.

c. Use of existing draperies must be approved by the Government.

5.04 DOORS: SUITE ENTRY (SEP 2013)

Suite entry doors shall be provided as part of the TIs and shall have a minimum clear opening of 32" wide x 84" high (per leaf). Doors shall meet the requirements of being a flush, solid core, 1-3/4-inch thick, wood door with a natural wood veneer face or an equivalent pre-approved by the Government. Hollow core wood doors are not acceptable. They shall be operable by a single effort; and shall meet the requirement of NFPA 101, Life Safety Code or the International Building Code (current as of the Lease Award Date). Doors shall be installed in a metal frame assembly which is primed and finished with a low VOC semi gloss oil-based paint finish with no formaldehyde.

5.05 DOORS: INTERIOR (SEP 2013)

Doors within the Space shall be provided as part of the TIs and shall have a minimum clear opening of 32" wide x 80" high. Doors shall be flush, solid core, wood with a natural wood veneer face or an equivalent door pre-approved by the LCO. Hollow core wood doors are not acceptable. They shall be operable with a single effort, and shall meet the requirements of NFPA 101, Life Safety Code or the International Building Code (current as of the Lease Award Date). Doors shall be installed in a metal frame assembly which is primed and finished with a low VOC semi-gloss oil-based paint with no formaldehyde.

5.06 DOORS: HARDWARE (SEP 2013)

Doors shall have door handles or door pulls with heavyweight hinges. The Lessor is encouraged to avoid the use of chrome-plated hardware. All doors shall have corresponding doorstops (wall- or floor-mounted) and silencers. All door entrances leading into the Space from public corridors and exterior

doors shall have automatic door closers. Doors designated by the Government shall be equipped with 5-pin, tumbler cylinder locks and strike plates. All locks shall be master keyed. Furnish at least two master keys for each lock to the Government. Any exterior entrance shall have a high security lock, with appropriate key control procedures, as determined by Government specifications. Hinge pins and hasps shall be secured against unauthorized removal by using spot welds or pinned mounting bolts. The exterior side of the door shall have a lock guard or astragal to prevent tampering of the latch hardware. Doors used for egress only shall not have any operable exterior hardware. All security-locking arrangements on doors used for egress shall comply with requirements of NFPA 101or the International Building Code current as of the Lease Award Date.

5.07 DOORS: IDENTIFICATION (JUN 2012)

Door identification shall be installed in approved locations adjacent to office entrances as part of the TIs. The form of door identification shall be approved by the Government.

5.08 PARTITIONS: SUBDIVIDING (SEP 2013)

A. Office subdividing partitions shall comply with applicable building codes and local requirements and ordinances and shall be provided as part of the TIs. Partitioning shall extend from the finished floor to the finished ceiling and shall be designed to provide a minimum sound transmission class (STC) of 37. Partitioning shall be installed by the Lessor at locations to be determined by the Government as identified in the DIDs. They shall have a flame spread rating of 25 or less and a smoke development rating of 450 or less (ASTM E-84).

B. HVAC shall be rebalanced and lighting repositioned, as appropriate, after installation of partitions.

C. If installed in accordance with the “Automatic Fire Sprinkler System” and “Fire Alarm System” paragraphs, sprinklers and fire alarm notification appliances shall be repositioned as appropriate after installation of partitions to maintain the level of fire protection and life safety.

D. Partitioning requirements may be satisfied with existing partitions if they meet the Government’s standards and layout requirements.

5.09 WALL FINISHES (JUN 2012)

If the Government chooses to install a wall covering, the minimum standard is vinyl-free, chlorine-free, plasticizer-free wall covering with recycled content or bio-based commercial wall covering weighing not less than 13 ounces per square yard or equivalent. If the Government chooses to install a high-performance paint coating, it shall comply with the VOC limits of the Green Seal Standard GS-11.

5.10 PAINTING – TI (SEP 2013)

A. Prior to acceptance, all surfaces within the Space which are designated by GSA for painting shall be newly finished in colors acceptable to the Government.

B. The Lessor shall provide interior paints and coatings that meet or are equivalent to the following standards for VOC off gassing:

1. Topcoat paints: Green Seal Standard GS-11, Paints, First Edition, May 20, 1993.
2. All other architectural coatings, primers, and undercoats: South Coast Air Quality Management District (SCAQMD) Rule 1113, Architectural Coatings, effective January 1, 2004.
3. Architectural paints, coatings, and primers applied to interior walls and ceilings:
   a. Flats: 50 grams per liter (g/L).
   b. Non-flats: 150 g/L.
4. Anti-corrosive and anti-rust paints applied to interior ferrous metal substrates: 250 g/L.
5. Clear wood finishes:
   a. Varnish: 350 g/L.
   b. Lacquer: 550 g/L.
6. Floor coatings: 100 g/L.
7. Sealers:
   a. Waterproofing sealers: 250 g/L.
   b. Sanding sealers: 275 g/L.
   c. All other sealers: 200 g/L.
8. Shellacs:
   a. Clear: 730 g/L.
   b. Pigmented: 550 g/L.
9. Stains: 250 g/L.

C. Use reprocessed latex paint in accordance with EPA’s CPG (Comprehensive Procurement Guidelines) on all painted surfaces where feasible. The type of paint shall be acceptable to the Government.

5.11 FLOOR COVERINGS AND PERIMETERS (SEP 2013)

A. Broadloom carpet or carpet tiles shall meet the requirements set forth in the specifications below. Floor perimeters at partitions shall have wood, rubber, vinyl, or carpet base. Floor covering shall be installed in accordance with manufacturing instructions to lay smoothly and evenly.

B. The use of existing carpet may be approved by the Government; however, existing carpet shall be repaired, stretched, and cleaned before occupancy and shall meet the static buildup requirement as stated in the specifications below.

C. Any alternate flooring shall be pre-approved by the Government.

D. SPECIFICATIONS FOR CARPET TO BE NEWLY INSTALLED OR REPLACED

1. Product sustainability and environmental requirements. In order to achieve superior performance in multiple environmental attribute areas, carpet must have third party certification in accordance with ANSI/NSF 140 2007e Sustainable Carpet Assessment Standard at a "Gold" level minimum. Carpet manufacturer must supply certificate as part of the procurement documentation.

2. Recycled content: Recycled content is measured by total product weight of pre-consumer and/or post-consumer materials.

3. Low emitting materials. The carpet and floor adhesive (for glue-down installations) must meet the Green Label Plus (GLP) and floor adhesive (for direct glue down) requirements of the Carpet and Rug Institute (CRI). GLP number must be provided. Carpet and all installation components including adhesives, sealers, seam welds, and seam sealers must meet the Low Emitting Materials standards as outlined in U.S. Green Building Council LEED criteria. Adhesives must meet VOC content standards per South Coast Air Quality Management District Rule #1168.

4. Face fiber content. Face yarn must be 100 percent nylon fiber. Loop Pile shall be 100 percent Bulk Continuous Filament (BCF); cut and loop shall be 100 percent BCF for the loop portion and may be BCF or staple for the cut portion; cut pile carpet shall be staple or BCF.

5. Performance requirements for broadloom and modular tile:

a. Static: Less than or equal to 3.5 kV when tested by AATCC Test Method 134 (Step Test Option).
b. Flammability: Meets CPSC-FF-1-70, DOC-FF-1-70 Methenamine Tablet Test criteria.
c. Flooring Radiant Panel Test: Meets NFPA 253 Class I or II depending upon occupancy and fire code when tested under ASTM E-648 for glue down installation.
d. Smoke Density: NBS Smoke Chamber - Less than 450 Flaming Mode when tested under ASTM E-662.

NOTE: Testing must be performed in a NVLAP accredited laboratory.

6. Texture Appearance Retention Rating (TARR). Carpet must meet TARR ratings specified below:

Space Definition	Traffic Classification	TARR Classification
Private Offices	Moderate	≥ 3.0 TARR
Training, conference, courtrooms, etc	Heavy	≥ 3.0 TARR
Open Office, cafeteria, corridors, lobbies	Severe	≥ 3.5 TARR

The carpet must be evaluated using ASTM D-5252 Hexapod Drum Test as per the commercial carpet test procedure and the TARR classification determined using ASTM D-7330.

7. Carpet reclamation. Reclamation of existing carpet to be determined with potential vendor. When carpet is replaced, submit certification documentation from the reclamation facility to the LCO.

8. Warranty. Submit a copy of the manufacturer's standard warranty to the LCO within the first **60** days of Government occupancy. The Government is to be a beneficiary of the terms of this warranty.

5.12 HEATING AND AIR CONDITIONING (JUN 2012)

Zone Control. Provide individual thermostat control for office Space with control areas not to exceed 1,500 ABOA SF. Interior spaces must be separately zoned. Specialty occupancies (conference rooms, kitchens, etc.) must have active controls capable of sensing Space use and modulating HVAC system in response to Space demand. Areas that routinely have extended hours of operation shall be environmentally controlled through dedicated heating and air conditioning equipment. Special purpose areas (such as photocopy centers, large conference rooms, computer rooms, etc.) with an internal cooling load in excess of 5 tons shall be independently controlled. Provide concealed package air conditioning equipment to meet localized spot cooling of tenant special equipment. Portable space heaters are prohibited.

5.13 ELECTRICAL: DISTRIBUTION (JUN 2012)

A. All electrical, telephone, and data outlets within the Space shall be installed by the Lessor in accordance with the DIDs. All electrical outlets shall be installed in accordance with NFPA Standard 70.

B. All outlets within the Space shall be marked and coded for ease of wire tracing; outlets shall be circuited separately from lighting. All floor outlets shall be flush with the plane of the finished floor. Outlet cover colors shall be coordinated with partition finish selections.

C. The Lessor shall in all cases safely conceal outlets and associated wiring (for electricity, voice, and data) to the workstation(s) in partitions, ceiling plenums, in recessed floor ducts, under raised flooring, or by use of a method acceptable to the Government.

5.14 TELECOMMUNICATIONS: DISTRIBUTION AND EQUIPMENT (JUN 2012)

Telecommunications floor or wall outlets shall be provided as part of the TIs. At a minimum, each outlet shall house one 4-pair wire jack for voice and one 4-pair wire jack for data. The Lessor shall ensure that all outlets and associated wiring, copper, coaxial cable, optical fiber, or other transmission medium used to transmit telecommunications (voice, data, video, Internet, or other emerging technologies) service to the workstation shall be safely concealed under raised floors, in floor ducts, walls, columns, or molding. All outlets/junction boxes shall be provided with rings and pull strings to facilitate the installation of cable. Some transmission medium may require special conduit, inner duct, or shielding as specified by the Government.

5.15 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (AUG 2008)

Provide sealed conduit to house the agency telecommunications system when required.

5.16 DATA DISTRIBUTION (JUN 2012)

The Government shall be responsible for the cost of purchasing and installing data cable. The Lessor shall safely conceal data outlets and the associated wiring used to transmit data to workstations in floor ducts, walls, columns, or below access flooring. The Lessor shall provide as part of the TI, outlets with rings and pull strings to facilitate the installation of the data cable. When cable consists of multiple runs, the Lessor shall provide ladder type or other acceptable cable trays to prevent Government-provided cable coming into contact with suspended ceilings or sprinkler piping. Cable trays shall form a loop around the perimeter of the Space such that they are within a 30-foot horizontal distance of any single drop.

5.17 ELECTRICAL, TELEPHONE, DATA FOR SYSTEMS FURNITURE (JUN 2012)

A. The Lessor shall provide as part of the TIs separate data, telephone, and electric junction boxes for the base feed connections to Government provided modular or systems furniture, when such feeds are supplied via wall outlets or floor penetrations. When overhead feeds are used, junction boxes shall be installed for electrical connections. Raceways shall be provided throughout the furniture panels to distribute the electrical, telephone, and data cable. The Lessor shall provide all electrical service wiring and connections to the furniture at designated junction points. Each electrical junction shall contain an 8-wire feed consisting of 3 general purpose 120-V circuits with 1 neutral and 1 ground wire, and a 120-V isolated ground circuit with 1 neutral and 1 isolated ground wire. A 20-ampere circuit shall have no more than 8 general purpose receptacles or 4 isolated ground "computer" receptacles.

B. The Government shall be responsible for the cost of purchasing data and telecommunications cable. Said cable shall be installed and connected to systems furniture by the Lessor/contractor with the assistance and/or advice of the Government or computer vendor. The Lessor shall provide wall mounted data and telephone junction boxes, which shall include rings and pull strings to facilitate the installation of the data and telecommunications cable. When cable consists of multiple runs, the Lessor shall provide ladder-type or other acceptable cable trays to prevent Government provided cable coming into contact with suspended ceilings or sprinkler piping. Cable trays shall form a loop around the perimeter of the Space such that they are within a 30-foot horizontal distance of any single drop. Said cable trays shall provide access to both telecommunications data closets and telephone closets.

C. The Lessor shall furnish and install suitably sized junction boxes near the “feeding points” of the furniture panels. All “feeding points” shall be shown on Government approved design intent drawings. The Lessor shall temporarily cap off the wiring in the junction boxes until the furniture is installed. The Lessor shall make all connections in the power panel and shall keep the circuit breakers off. The Lessor shall identify each circuit with the breaker number and shall identify the computer hardware to be connected to it. The Lessor shall identify each breaker at the panel and identify the devices that it serves.

D. The Lessor’s electrical contractor must connect power poles or base feeds in the junction boxes to the furniture electrical system and test all pre-wired receptacles in the systems furniture. Other Government contractors will be installing the data cable in the furniture panels for the terminal and printer locations, installing the connectors on the terminal/printer ends of the cable, and continuity testing each cable. Work shall be coordinated and performed in conjunction with the furniture, telephone, and data cable installers. Much of this work may occur over a weekend on a schedule that requires flexibility and on-call visits. The Lessor must coordinate the application of Certification of Occupancy with furniture installation.

5.18 LIGHTING: INTERIOR AND PARKING – TI (SEP 2013)

A. FIXTURES: Once the design intent drawings are approved, the Lessor shall design and provide interior lighting to comply with requirements under the paragraph, “Lighting: Interior and Parking – Shell.” Any additional lighting fixtures and/or components required beyond what would have been provided for an open office plan (shell) are part of the TIs.

B. PENDANT STYLE FIXTURES: If pendant style lighting fixtures are used, the increase between the number of fixtures required in the Building shell and the Space layout is part of the TIs.

C. MIXED FIXTURES: DIDs may require a mixed use of recessed or pendant style fixtures in the Space.

D. BUILDING PERIMETER: There may be additional requirements for lighting in exterior parking areas, vehicle driveways, pedestrian walkways, and Building perimeter in the Security Requirements attached to this Lease.

SECTION 6 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

6.01 SERVICES, UTILITIES, AND MAINTENANCE (ON-AIRPORT) (SEP 2013)

The Lessor is responsible for providing all utilities necessary for base building and tenant operations and all associated costs are included as a part of the established rental rates. The following services, utilities, and maintenance shall be provided by the Lessor as part of the rental consideration (check all that apply):

- ☒ HEAT
- ☒ ELECTRICITY
- ☒ POWER (Special Equip.)
- ☒ WATER (Hot & Cold)
- ☒ SNOW REMOVAL
- ☒ TRASH REMOVAL
- ☒ CHILLED DRINKING WATER
- ☒ AIR CONDITIONING
- ☒ RESTROOM SUPPLIES
- ☒ JANITORIAL SERV. & SUPP.
- ☒ ELEVATOR SERVICE
- ☒ WINDOW WASHING
  Frequency As Needed
- ☒ CARPET CLEANING
  Frequency As Needed
- ☒ INITIAL & REPLACEMENT LAMPS, TUBES & BALLASTS
- ☒ PAINTING FREQUENCY
  Space every 5 years
  Public Areas As Needed
- ☐ OTHER (Specify below)
  _____

The Lessor shall have an onsite building superintendent or a locally designated representative available to promptly respond to deficiencies, and immediately address all emergency situations.

6.02 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS FOR AIRPORT OCCUPANCIES (SEP 2013)

The Government shall have access to the Premises and its Appurtenant Areas at all times without additional payment, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed during tenant working hours unless otherwise specified as a special requirement elsewhere in this Lease. Janitorial Services shall not be required on weekends or Federal holidays. Services, maintenance, and utilities shall be provided from **7:00 AM to 6:00 PM.**

6.03 MAINTENANCE AND TESTING OF SYSTEMS (SEP 2013)

A. The Lessor is responsible for the total maintenance and repair of the leased Premises. Such maintenance and repairs include the site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative.

B. At the Lessor's expense, the Government reserves the right to require documentation of proper operations, inspection, testing, and maintenance of fire protection systems, such as, but not limited to, fire alarm, fire sprinkler, standpipes, fire pump, emergency lighting, illuminated exit signs, emergency generator, prior to occupancy to ensure proper operation. These tests shall be witnessed by the Government's designated representative.

6.04 RECYCLING (ON-AIRPORT) (JUN 2012)

Where state or local law, code, or ordinance requires recycling programs (including mercury-containing lamps) for the Space to be provided pursuant to this Lease, the Lessor shall comply with such state and local law, code, or ordinance in accordance with GSA Form 3517, General Clauses, 552.270-8, *Compliance with Applicable Law*. During the lease term, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Leased Space.

6.05 RANDOLPH-SHEPPARD COMPLIANCE (SEP 2013)

During the term of the Lease, the Lessor may not establish vending facilities within the leased Space that will compete with any Randolph-Sheppard vending facilities.

6.06 INDOOR AIR QUALITY (SEP 2013)

A. The Lessor shall control contaminants at the source and/or operate the Space in such a manner that the GSA indicator levels for carbon monoxide (CO), carbon dioxide (CO2), and formaldehyde (HCHO) are not exceeded. The indicator levels for office areas shall be: CO 9 ppm time weighted average (TWA 8 hour sample); CO2 1,000 ppm (TWA); HCHO 0.1 ppm (TWA).

B. The Lessor shall make a reasonable attempt to apply insecticides, paints, glues, adhesives, and HVAC system cleaning compounds with highly volatile or irritating organic compounds, outside of working hours. Except in an emergency, the Lessor shall provide at least 72 hours advance notice to the Government before applying noxious chemicals in occupied spaces and shall adequately ventilate those spaces during and after application.

C. The Lessor shall promptly investigate indoor air quality (IAQ) complaints and shall implement the necessary controls to address the complaint.

D. The Government reserves the right to conduct independent IAQ assessments and detailed studies in Space that it occupies, as well as in space serving the Space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by:

1. Making available information on Building operations and Lessor activities;
2. Providing access to Space for assessment and testing, if required; and
3. Implementing corrective measures required by the LCO.

E. The Lessor shall provide to the Government material safety data sheets (MSDS) upon request for the following products prior to their use during the term of the Lease: adhesives, caulking, sealants, insulating materials, fireproofing or firestopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finish for wood surfaces, janitorial cleaning products, pesticides, rodenticides, and herbicides. The Government reserves the right to review such products used by the Lessor within:

1. The Space;
2. Common Building areas;
3. Ventilation systems and zones serving the Space; and
4. The area above suspended ceilings and engineering space in the same ventilation zone as the Space.

F. Where hazardous gasses or chemicals (any products with data in the Health and Safety section of the MSDS sheets) may be present or used, including large-scale copying and printing rooms, segregate areas with deck-to-deck partitions with separate outside exhausting at a rate of at least 0.5 cubic feet per minute per SF, no air recirculation. The mechanical system must operate at a negative pressure compared with the surrounding spaces of at least an average of 5 Pa (pascal) (0.02 inches of water gauge) and with a minimum of 1 Pa (0.004 inches of water gauge) when the doors to the rooms are closed.

6.07 HAZARDOUS MATERIALS (ON-AIRPORT) (SEP 2013)

The leased Space shall be free of hazardous materials, hazardous substances, and hazardous wastes, as defined by and according to applicable Federal, state, and local environmental regulations including, but not limited to, the following:

A. The leased Space shall be free of all asbestos containing materials, except undamaged asbestos flooring in the Space or undamaged boiler or pipe insulation outside the Space, in which case an asbestos management program conforming to EPA guidance shall be implemented.

B. The Lessor shall provide Space to the Government that is free from actionable mold and free from any conditions that reasonably can be anticipated to permit the growth of actionable mold or are indicative of the possibility that actionable mold will be present (indicators).

1. Actionable mold is mold of types and concentrations in excess of that found in the local outdoor air.

2. The Lessor shall be responsible for conducting the remediation in accordance with the relevant provisions of the document entitled "Mold Remediation in Schools and Commercial Buildings" (EPA 402-K-01-001, March 2001), published by EPA, as same may be amended or revised from time to time, and any other applicable Federal, state, or local laws, regulatory standards, and guidelines.

3. The Lessor acknowledges and agrees that the Government shall have a reasonable opportunity to inspect the leased Space after conclusion of the remediation. If the results of the Government's inspection indicate that the remediation does not comply with the plan or any other applicable Federal, state, or local laws, regulatory standards, or guidelines, the Lessor, at its sole cost, expense, and risk, shall immediately take all further actions necessary to bring the remediation into compliance.

4. If the Lessor fails to exercise due diligence, or is otherwise unable to remediate the actionable mold, the Government may implement a corrective action program and deduct its costs from the rent.

6.08 OCCUPANT EMERGENCY PLANS (SEP 2013)

The Lessor is required to cooperate, participate and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and if necessary, a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP. The Plan, among other things, must include an annual emergency evacuation drill, emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

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SECTION 7 ADDITIONAL TERMS AND CONDITIONS

7.01 SECURITY STANDARDS (JUN 2012)

The Lessor agrees to the requirements of **Security Level II** attached to this Lease.

7.02 AVIATION RELATED ACTIVITIES

The Government may, at any time and from time to time substitute a Government agency or agencies for the Government agency named in the lease. The parties acknowledge that use is limited to aviation related activities.