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FINAL
CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. May 13, 2014

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 May 6, 2014

*****WORKSHOP TO FOLLOW IN THE COUNCIL CHAMBERS*****

AWARDS AND PROCLAMATIONS

- Proclamations:

Law Enforcement Memorial Day
Day of Reason
Motorcycle Awareness Month
- Awards:

Wichita Area Sister Cities Scholarships

I. PUBLIC AGENDA

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

None

II. CONSENT AGENDAS (ITEMS 1 THROUGH 24)

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. Building Facade Improvements at 915 West Douglas. (District IV)

RECOMMENDED ACTION: Approve the final statement of cost and place the ordinance adjusting the special assessment on first reading.

2. New Central Library Architectural Services.

RECOMMENDED ACTION: Approve the contracts with GLMV Architecture and HBM Architects and authorize the necessary signatures.

3. Quarterly Financial Report for Quarter Ended March 31, 2014.

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

4. Swimming Pool Improvements. (District V)

RECOMMENDED ACTION: It is recommended that the City Council 1) adopt the bonding resolution, 2) authorize the initiation of the projects, and 3) authorize all necessary signatures.

5. Ordinances Amending Sections 3.30.020, 3.30.00, 3.30.075 and 5.48.050 and Creating Section 3.30.078 pertaining to Loitering Near Entertainment Establishments and Creating Chapter 5.05 Establishing the Old Town Entertainment District.

RECOMMENDED ACTION: Approve the ordinances and place them on first reading.

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. CUP2014-00006 – Amendment to Parcels 1 and 13 of the Westway Shopping Center Community Unit Plan (“CUP”) DP-21 to permit “recreation and entertainment, outdoor.” (District IV)

RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the amendment to Parcels 1 and 13 of the Westway Shopping Center CUP DP-21 to permit “recreation and entertainment, outdoors” subject to the recommended conditions (simple majority vote).

2. ZON2014-00003 and CON2014-00011 – Zone change request from LC Limited Commercial and SF-5 Single-family Residential to LI Limited Industrial, and a Conditional Use to permit a “wrecking and salvage yard” on property generally located 500 feet north of West 29th Street North, on the west side of North Hoover Road, 3059 North Hoover Road. (District V)

RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the requested zone change and conditional use to permit a “wrecking and salvage yard,” subject to the recommended conditions of approval (three-fourths majority vote required); authorize the Mayor to sign the ordinance and resolution and place the ordinance on first reading.

HOUSING AGENDA

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

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

VI. NON-CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

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

VII. NON-CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

VIII. COUNCIL MEMBER AGENDA

1. ***Approval of Travel for Mayor Carl Brewer to Attend the Governor's Economic Council in Topeka, Kansas, may 20, 2014.***

RECOMMENDED ACTION: Approve the travel.

IX. COUNCIL MEMBER APPOINTMENTS

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 24)

II. CITY COUNCIL CONSENT AGENDA ITEMS

1. Report of Board of Bids and Contracts dated May 12, 2014.

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

2. Applications for Licenses:

<u>Renewal</u>	<u>2014</u>	<u>Address</u>
Gail R Crump	GS Entertainment dba Adult Superstore	5858 South Broadway

RECOMMENDED ACTION: Approve the licenses.

3. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2014</u>	<u>(Consumption on Premises)</u>
Mary T Villar	Mexico Café**	555 West Douglas
Mary T Villar	Villar’s Mexico Café**	1860 South Hillside
Lawrence E Damm	Family Homes Association**	3202 West 13th North

<u>Renewal</u>	<u>2014</u>	<u>(Consumption off Premises)</u>
Andrea Lazenby	Sam’s Club #6275***	3084 North maize Road
Kevin Hess	Kwik Shop #790***	3750 North Maize Road
Kulwinder Jaswal	Petro America***	2838 West Central
Son Tran	Speedway***	565 South Market
Phillip L Near	Jump Start Store #1***	1535 East Pawnee

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

***Retailer (Grocery stores, convenience stores, etc.)

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

4. Preliminary Estimates:

a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

5. Consideration of Street Closures/Uses.
 - a. Street Closure - MacArthur from I-235 to Broadway. (District III and IV)
 - b. Community Events - Wichita Ribfest.(District I)
 - c. Community Events - Delano Birthday Party.(District IV)
 - d. Community Events - Special Olympics Kansas Summer Games Opening Ceremony. (District I)
 - e. Community Events - Upper Room Fundraiser. (District I)

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

6. Change Order:
 - a. Change Order No. 5 for the Lincoln Street Bridge and Dam Improvements. (Districts III and IV)

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

7. Minutes of Advisory Boards/Commissions

Wichita Area Sister Cities Board, February 27, 2014
Wichita Area Sister Cities Board, March 27, 2014
Transit Advisory Board, March 28, 2014

RECOMMENDED ACTION: Receive and file.

8. Award of Transit Safety and Security Audit and Report.

RECOMMENDED ACTION: Approve the selection of RLS & Associates, Inc and authorize the Purchasing Manager to enter into a contract in the amount of \$40,126.17 for a transit safety and security audit and report.

9. Contracts and Agreements for April 2014.

RECOMMENDED ACTION: Receive and file.

10. Playground Improvements at Dr. Glen Dey Park and Central and Grove Park - Vendor Selection. (District I)

RECOMMENDED ACTION: Approve the vendor selection, approve the contracts, and authorize all necessary signatures.

11. Report on Claims for March 2014.

RECOMMENDED ACTION: Receive and file.

12. Sale of City-Owned Land Near 159th Street East and 85th Street North.

RECOMMENDED ACTION: Approve the real estate purchase agreement and authorize all necessary signatures.

13. Second Reading Ordinances: (First Read May 6, 2014)

- 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.

14. *SUB2014-00009 -- Plat of Castlegate Addition located on the north side of Central, west of 119th Street West.
(District V)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

15. *SUB2014-00016 -- Plat of Devlin Auto Realty Addition located on the southwest corner of Douglas and Hydraulic. (District I)

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

16. *VAC2014-00002 - Request to vacate a platted sanitary sewer easement and a platted setback on property generally located south of 33rd Street North, west of Amidon Avenue, on the west side of North Clarence Circle.
(District VI)

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

17. *VAC2014-00004 - Request to vacate a platted utility easement on property generally located south of 2nd Street, a block west of West Street on the east side of Florence Street. (District VI)

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

18. *VAC2014-00005 - Request to vacate a portion of a utility easement dedicated by separate instrument, on property generally located between 21st and 29th Streets North, north of Central Park Street, on the west side of Maize Road. (District V)

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

19. *VAC2014-00006 - Request to vacate a portion of a platted street side yard setback on property generally located east of Woodlawn Boulevard, south of 9th Street, on the northwest corner of Stratford and Cresthill Roads. (District II)

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

20. *CUP2007-00044 – Extension of time to complete the platting requirement for DP-307, creation of a new Community Unit Plan, generally located southeast of the intersection of West 13th Street North and Ridge Road. (District V)

RECOMMENDED ACTION: Approve an extension of the platting deadline to July 22, 2015.

21. *CUP2008-00015 AND ZON2008-00021 – Extension of time to complete the platting requirement for the Parker Addition Community Unit Plan and zone change from SF-5 Single-family Residential (SF-5) to LC Limited Commercial (LC) generally located on the northwest and southeast corners of Central Avenue and 127th Street East. (District II)

RECOMMENDED ACTION: Approve an extension of the platting deadline to July 22, 2016.

22. *ZON2008-00033 – Extension of time to complete the platting requirement for a zone change from SF-5 Single-family Residential (SF-5) to MF-29 Multi-family residential (MF-29), generally located north of West Central Avenue and ½ mile east of North Ridge Road. (District V)

RECOMMENDED ACTION: Approve an extension of the platting deadline to July 22, 2015.

23. *ZON2014-00002 – Zone change request from SF-5 Single-family Residential to LC Limited Commercial (LC), generally located south of West Taft Street and east of South Illinois Avenue, 526 S. Illinois Ave. (District IV)

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

II. CONSENT HOUSING AGENDA ITEMS

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

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

None

II. CONSENT AIRPORT AGENDA ITEMS

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

24. *WAA Report of Board of Bids and Contracts dated May 12, 2014.

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

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council Members
SUBJECT: Building Facade Improvements at 915 West Douglas (District IV)
INITIATED BY: Office of Urban Development
AGENDA: New Business

Recommendation: Approve the statement of cost and place to ordinance on first reading.

Background: Since 2001, the City has provided a Façade Improvement Program. It is available to properties in defined areas, including the City's core area. On April 23, 2013, the City Council authorized special assessment financing for the façade improvements at 915 West Douglas, by maximum assessment ordinance in an amount not to exceed \$90,000. Construction of the façade improvements is now complete and the statement of costs is presented for approval. Since final costs are less than the not-to-exceed amount, it is also necessary to amend the assessment ordinance to reflect the final assessment amount prior to bonding.

Analysis: For purposes of establishing the final assessment amount, an ordinance has been prepared reflecting the final costs upon completion of the façade project. Final costs of the project include construction costs including architectural/engineering fees, City administrative charges, interim financing costs, estimated costs of issuance related to permanent financing, and a one-year debt service reserve based upon permanent financing assumptions. Upon adoption of the ordinance by the governing body, the ordinance will be published and a notice of the final assessment amount will be mailed to the affected property owner.

State statutes provide the City Council authority to use special assessment funding for facade projects. Pursuant to K.S.A. 12-6a01 *et seq.*, if the final cost of completed improvements is less than the maximum amount of the assessment as set forth in the original maximum assessment ordinance, it is necessary to reduce the assessment to an amount equal to the final cost of the improvements.

Financial Considerations: The final assessment amount to be paid by special assessments totals \$70,959. General Obligation Special Assessment Bonds will be issued in August 2014, paid as to principal and interest over a 15 year term, with special assessments levied against the improved property. The bonds will be backed by the full faith and credit of the City of Wichita. Any funds remaining in the debt service reserve will be used for the final payment.

Legal Considerations: The authorizing ordinance adjusting the special assessment to reflect the final costs of the project was prepared by Bond Counsel and has been reviewed and approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the final statement of cost and place the ordinance adjusting the special assessment on first reading.

Attachments: Statement of Cost
Ordinance

ORDINANCE NO. 49-750 028001

AN ORDINANCE ADJUSTING MAXIMUM SPECIAL ASSESSMENTS ON CERTAIN LOTS, PIECES AND PARCELS OF PROPERTY LIABLE FOR SUCH SPECIAL ASSESSMENTS TO PAY THE COSTS OF INTERNAL IMPROVEMENTS IN THE CITY OF WICHITA, KANSAS (FAÇADE IMPROVEMENTS – 915 WEST DOUGLAS FAÇADE IMPROVEMENT DISTRICT).

WHEREAS, pursuant to Resolution No. 13-058 (the “Resolution”), the City Council (the “Governing Body”) of the City of Wichita, Kansas (the “City”) has authorized, pursuant to K.S.A. 12-6a01 *et seq.* (the “Act”) the creation of an improvement district (the “Improvement District”) and the construction of the following improvements therein:

Construction of improvements to area walls on public ways or land abutting thereto consisting of improvements to the portion of 915 West Douglas Avenue abutting public ways, including Douglas Avenue (the "Improvements").

WHEREAS, pursuant to the Act and Ordinance No. 49-485 (the “Original Assessment Ordinance”), the Governing Body has levied special assessments against certain property in the City in connection with the Improvements at the maximum amount deemed necessary by the Governing Body to pay the cost of the Improvements; and

WHEREAS, *Section 1* of the Original Assessment Ordinance provides that if the final cost of the completed Improvements is less than the maximum amount of the assessments set forth in *Exhibit A* to the Original Assessment Ordinance, the Governing Body shall adjust the assessments to reflect the cost of the completed Improvements; and

WHEREAS, the Improvements have been completed and the final costs are less than the amount used to calculate the maximum special assessments levied in the Original Assessment Ordinance; and

WHEREAS, it is necessary to reduce the assessments levied in the Original Assessment Ordinance to an amount equal to the final cost of the Improvements.

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

Section 1. Assessment Adjustments. Pursuant to the Act and *Section 1* of the Original Assessment Ordinance, the special assessments to pay the costs of the Improvements are hereby adjusted based on the final cost of the Improvements and are levied in the amounts and assessed against the lots, pieces and parcels of land liable therefor as described in *Exhibit A* to this Ordinance, which is incorporated herein by reference. All other terms and provisions of the Original Assessment Ordinance shall remain in full force and effect.

Section 2. Notification. The City Clerk is hereby authorized and directed to: (a) mail a Notice of Adjusted Assessment to the owners of property assessed for the Improvements pursuant to the Original Assessment Ordinance; and (b) return to any property owners that prepaid the special assessments during the prepayment period authorized by the Original Assessment Ordinance, the difference between the assessment paid and the adjusted assessment amount set forth in this Ordinance.

Section 4. Effective Date. This Ordinance shall take effect and be in force from and after its

passage by the Governing Body and publication once in the official City newspaper. The City Clerk is directed to file this Ordinance with the Register of Deeds of Sedgwick County, Kansas.

PASSED by the City Council of the City on May 20th, 2015 and **SIGNED** by the Mayor.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

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Exhibit A

**(FAÇADE IMPROVEMENTS – 915 WEST DOUGLAS FAÇADE IMPROVEMENT
DISTRICT)
RESOLUTION NO. 13-058**

Description of Property	Amount of Original Maximum Assessment	Final Adjusted Assessment
LOT 30 & 1/2 VAC ALLEY ADJ ON E CHICAGO NOW DOUGLAS AVE. WEST WICHITA ADDITION		
Pin #00198195		
Tax Key #D-00212	\$90,000.00	\$70,959.00

Approved /Accepted by City Council

Wichita, Kansas

May 13, 2014

This _____

City Clerk
Wichita, Kansas

OCA# 766044
Project# 491044

Dear City Clerk:

Following is the cost of constructing:
Façade Improvements at 915 W. Douglas

Lump Sum Contract Amount	\$69,826.00
Recording Façade Documents	\$0.00
Project Administration	\$1,396.52
Publication	\$112.54
Abstract	\$20.00
Construction Cost	<u>\$71,355.06</u>
Idle Fund Interest	\$1,476.94
Temporary Finance Cost	\$0.00
Finance Administration	\$1,227.00
1 Year Debt Service reserve	<u>\$6,900.00</u>
TOTAL COST	\$80,959.00

Respectfully Submitted,

Allen Bell, Urban Development Director

Property: \$70,959.00
City: \$10,000.00

Fall 2014

Max.Assessment Ordinance: \$90,000.00
Resolution No. 13-058

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: New Central Library Architectural Services (District VI)

INITIATED BY: Wichita Public Library 

AGENDA: New Business

Recommendation: Approve the contracts.

Background: The 2006-2021 Wichita Public Library System Master Plan was adopted by the Library Board of Directors on August 15, 2006 and endorsed by the City Council on September 12, 2006. On November 6, 2007, the City Council adopted a \$30,000,000 bonding resolution, initiated the Capital Improvement Project (CIP) for a new Central Library and authorized negotiations to acquire property once a site was selected. On June 3, 2008, the City Council approved a Real Estate Purchase Contract and Lease Agreement to acquire property at 711 West 2nd Street as the location for the new Central Library. A contract with HBM Architects for building programming was approved by the City Council on April 21, 2009. A supplemental contract with the same firm to test the feasibility of modifying the building program into a phased construction project was approved by the City Council on May 15, 2012. The modified building program was approved by the Library Board of Directors on April 16, 2013 and presented to the City Council during a workshop on April 23, 2013. On July 9, 2013, the City Council authorized release of a request for qualifications for design services for this proposed facility with the understanding that any contract to be created as a result of the solicitation would be divided into two phases. The first phase would include schematic design and preliminary design development required to better define likely construction costs and to provide tools to assist with evaluation of alternate funding options and fundraising. Remaining phases of the contract would not be completed until a funding source for construction was identified and completion of design development was authorized by City Council.

Analysis: A Staff Screening and Selection Committee (SSC) comprised of representatives from the Library, Finance, Purchasing, the City Manager's Office, Law, Public Works & Utilities, Planning and the Library Board of Directors reviewed seven proposals received by the City. Four firms were selected for interviews.

GLMV Architecture (GLMV) is recommended by the SSC as the building design team for this new Central Library. The recommendation is based upon the GLMV team's experience with public library projects, large public projects, and the planned approach for project cost controls. The team includes significant expertise in the areas of library technologies, public library design and interiors, urban design and planning, and the integration of public art.

The proposed agreement with GLMV includes four parts. The initial engagement phase (part 1) will include charrette sessions to validate the modified building program, to assess the adequacy and efficiency of the current Central Library facility to provide spaces outlined in the building program, to compare the building program with current trends in the library industry, to identify the scope and use of technology of the building in relation to program requirements, to discuss and identify other items or components that impact use, function and cost of the library, to develop a refined concept floor plan, exterior massing models and site plans with estimated project costs. At the conclusion of the charrette, a preferred building option will be selected from which schematic designs and the preliminary design

development will be completed. The remaining phases of the project include design development completion (part 2), preparation of construction documents (part 3), and bidding and construction administration (part 4).

The City will retain HBM Architects as its library consultant during the charrette, schematic design and initial design development phases to ensure that the intent and efficiencies identified in the modified building program are realized by the developing building design.

Financial Considerations: Costs for the Initial Engagement Phase to include charrette, schematic design and preliminary design development to be completed by GLMV Architecture are \$402,285 plus reimbursable expenses not to exceed \$26,800. Costs for the remaining part of the contract which would not be completed without an additional authorization of the City Council are as follows: Completion of Design Development - \$298,964 plus reimbursable expenses not to exceed \$12,500; Creation of Construction Documents - \$797,572 plus reimbursable expenses not to exceed \$22,000; and Bidding and Construction Administration - \$490,607 plus reimbursable expenses not to exceed \$18,500.

Costs for the work to be completed by HBM Architects during the charrette, schematic design and preliminary design development phases are established at a not to exceed cost of \$71,750 plus reimbursable expenses not to exceed \$15,400.

The adopted 2011-2020 CIP includes \$18,000,000 in 2014 and \$12,000,000 in 2015 for this project.

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

Recommendation/Action: It is recommended that the City Council approve the contracts with GLMV Architecture and HBM Architects and authorize the necessary signatures.

Attachments: Contract with GLMV Architects for FP340040 Architectural Services for a New Central Library, Supplemental Agreement 2 with HBM Architects

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

GLMV ARCHITECTURE, INC.

for

Architectural, Engineering and Special Consultant Services
New Wichita Public Library Facility

THIS AGREEMENT is made this 13TH day of May, 2014, by and between the CITY OF WICHITA, KANSAS, a municipal corporation, hereinafter called the "CITY" and GLMV ARCHITECTURE, INC., a Kansas corporation, hereinafter called the "ARCHITECT".

CITY desires to construct and operate a new central library facility

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ARCHITECT shall provide Architectural, Engineering and Special Consultation Services related to the planning and construction of a new central library, as detailed in the Scope of Services for the Wichita Public Library Facility Project document attached as Exhibit A.

II. IN ADDITION, THE ARCHITECT AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this AGREEMENT.

- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising out of or resulting from negligent errors, omissions or acts of ARCHITECT, its agents, servants, employees, or subcontractors occurring in the performance of its services under this AGREEMENT.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ARCHITECT and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto.
- 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 ARCHITECT within the time allotted for the project in accordance with agreed schedule; EXCEPT that the ARCHITECT 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 ARCHITECT.
- 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 ARCHITECT under this AGREEMENT. ARCHITECT further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ARCHITECT, its agents, employees and subcontractors, under this AGREEMENT, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ARCHITECT shall procure and maintain such insurance as will protect the ARCHITECT from damages resulting from the negligent acts of the ARCHITECT, 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 \$1,000,000.00 per claim and annual aggregate subject to a deductible of \$10,000.00, or such other amount that ARCHITECT can establish to CITY as reasonable. In addition, a Worker's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "other states coverage" 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 Worker's Compensation Law. The liability limit shall be not less than:

Worker's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a commercial general liability policy shall be procured and maintained by the ARCHITECT that shall be written in a comprehensive form and shall protect ARCHITECT, and CITY as an additional insured, against all claims arising from liabilities or injuries to persons (other than ARCHITECT'S employees) or damage to property of the CITY or others arising out or resulting from any negligent act or omission of ARCHITECT, its agents, officers, employees or subcontractors in the performance of the professional services under this AGREEMENT. The liability limit shall not be less than \$2,000,000.00 per claim and annual aggregate for bodily injury, death and property damage. Certificates of Insurance satisfactory to the City Attorney shall be filed with the CITY prior to the time ARCHITECT starts any work under this AGREEMENT. In addition, insurance policies applicable hereto

shall contain a provision that provides that the CITY shall be given 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 ARCHITECT 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 ARCHITECT 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.
- L. To indemnify the City and the Wichita Public Library, their elected and appointed officials, agents and employees from and against any and all liability, damages, claims, suits, liens and judgments of whatever nature. This indemnification includes claims for contribution and or indemnification, for injuries to any person, persons or damage to property arising out of or resulting from the acts or inactions of any member, agent, employee or representative of the ARCHITECT. This indemnification includes any matter arising out of any actual or alleged unfair competition, disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade or administrative regulations.

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 ARCHITECT. Confidential materials so furnished will be kept confidential by the ARCHITECT.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ARCHITECT, except as specified in Exhibit A.
- C. To pay the ARCHITECT for his services in accordance with the requirements of this AGREEMENT.
- D. To provide the right-of-entry for ARCHITECT'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 ARCHITECT, 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 ARCHITECT of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ARCHITECT 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 ARCHITECT in a timely fashion.
- G. To save and hold ARCHITECT harmless against all suits, claims, damages and losses for injuries to persons or property arising out of negligent errors, omissions or acts of CITY, its agents, servants, employees, or subcontractors occurring in the performance of its services under this agreement.

IV. PAYMENT PROVISIONS

- A. Payment to the ARCHITECT for the performance of the professional services required by this agreement shall be made on the basis established in Exhibit A.
- B. When requested by the CITY, the ARCHITECT 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 ARCHITECT 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 ARCHITECT'S inability to proceed with the work, or because the services of the ARCHITECT are unsatisfactory; PROVIDED, however, that in any case the ARCHITECT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this AGREEMENT, but in no case shall payment be more than the ARCHITECT'S actual costs plus a fee for profit based upon a fixed percentage of the ARCHITECT'S actual costs.
- 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 ARCHITECT'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 ARCHITECT 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 and facilitated by CITY.
- C. That the services to be performed by the ARCHITECT under the terms of this AGREEMENT are personal and cannot be assigned, 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 ARCHITECT 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 ARCHITECT 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 AGREEMENT, that it is not intended by any of the provisions of any part of this AGREEMENT to create in the public or any member thereof the rights of a third party beneficiary hereunder, or to authorize anyone not a party to this AGREEMENT to maintain a suit for damages pursuant to the terms or provisions of this AGREEMENT.
- I. The right of the parties to enter into this AGREEMENT is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113) and the Budget Law (K.S.A. 79-2935) of the

State of Kansas. This AGREEMENT shall be construed and interpreted in such a manner as to ensure the parties shall at all times remain in conformity with such laws.

- J. The parties shall not be obligated to resolve any claim or dispute related to the AGREEMENT by arbitration. Any reference to arbitration in prior discussions or documents is deemed void.

IN WITNESS WHEREOF, the CITY and the ARCHITECT have executed this AGREEMENT as of the date first written above.

CITY OF WICHITA, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

GLMV Architecture, Inc.

Tom P. Montgomery, AIA, Vice President

ATTEST:

SCOPE of SERVICES for the WICHITA PUBLIC LIBRARY FACILITY PROJECT

SCOPE OF THE PROJECT

The City of Wichita is proposing the construction of a new central public library facility to be located on the southwest corner of Second Street and McLean Avenue. Preliminary space programming and concept design has been by HBM Architects in conjunction with the Wichita Public Library. The concept depicts a two-level facility of approximately 102,000 square feet. In addition, a concept site plan has been developed showing the new building's location on site with parking and other site amenities. The new library and its site location were part of the Wichita Downtown Master Plan and will serve as a gateway and anchoring destination for downtown. The budget for the Project is \$30 million, inclusive of construction, construction support costs, property acquisition, site development, administration costs for bonding, and programming.

Funding for the Project has not been finalized. The Wichita City Council has approved securing Architectural and Engineering Services from schematic design through design development to determine that the final design, scope of the Project, and the Project costs are within the established \$30 million budget.

The new public library facility has been designated as a "special consideration" project and will be integrating "public art" into the building design according to City of Wichita Design Council Consultant Guidelines. The design of this new library will complement the existing and surrounding buildings and site, and exhibit architecture of iconic nature.

DESIGN TEAM

Tom P Montgomery will be the Principal-in-Charge and the primary point of contact. All communication should be addressed to him. Mac McKee will assist with coordinating the efforts of the Design Team. Eric Eakins will be responsible for the production of the design documents and will be supported by the GLMV staff architects and designers. The Design Team includes the services of H3 Hardy Collaboration Architecture LLC; Sasaki Associates Inc.; Meta Arte LLC for determining public art opportunities; The Sextant Group Inc. for technology design; Dudley Williams & Associates, P.A. for structural systems design; and Professional Engineering Consultants, P.A. for mechanical, electrical and site civil systems design. For the construction cost estimator, a firm has not been selected. GLMV Architecture, Inc. shall timely provide to the City the credentials of 2-3 qualified independent construction cost estimating firms, from which the City will make its selection. The selected estimator shall serve as a part of the Design Team to participate in the kick-off meeting and thereafter, and the cost of all services and expenses of the selected estimator related to this project are to be included in the stipulated sum fees stated below. GLMV Architecture shall use its internal cost estimation capabilities for comparison and validation. The GLMV Architecture, Inc. staff responsible for internal cost estimation shall also participate in the entire project, commencing with the kick-off meeting.

SERVICES

The GLMV Architecture Design Team Services will be provided in four parts: Part A Initial Engagement Phase—Charrette, Schematic Design, and Partial (25 percent) Design Development; Part B Design Development Phase (100 percent); Part C Construction Document Phase; and Part D Bid and Construction Phase. The following are descriptions of the Services provided.

PART A - INITIAL ENGAGEMENT PHASE - CHARRETTE, SCHEMATIC DESIGN AND PARTIAL (25 PERCENT) DESIGN DEVELOPMENT

A preliminary schedule for the Initial Engagement Phase has been prepared both graphically and descriptively by GLMV Architecture, Inc., and is attached to this Proposal. The schedule includes allowances for periods of time required for the Owner's review, known at this time. Once approved, the time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Owner or Architect.

Initial Engagement

GLMV Architecture, Inc. will facilitate a kick-off meeting that will refine the expectations, activities, and schedule for the Project.

GLMV Architecture, Inc. shall review the program and other information furnished by the Owner. The Architect shall prepare a preliminary evaluation of the Owner's program through the verification effort and evaluate the budget for the cost of the building and Project site to establish the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. In addition, the current Central Library facility will be studied to determine whether it is feasible to accommodate the identified program spaces. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's review and approval one preliminary concept that includes three scalable Options for size and quality level. The three Options will be prepared in 2D graphic drawings, and preliminary massing will be done using tools such as SketchUp or other similar digital modeling. Preliminary cost (price points) models will be presented for the three Options.

The program verification and concept scalable Options will be developed and presented in a series of charrette sessions over the course of a week with the participation of the GLMV Architecture design team and the representatives of the City and Wichita Library in the designated committees. The purpose will be to select the concept Option and budget which is to be furthered developed in schematic design.

Schematic Design Drawings will be developed in this phase to further the design of the Floor Plan, initial building design for exterior and interior features, and site for development and organization, with an estimate of total Project costs. With approval of the Schematic Design Drawings and Project costs estimate, a limited process will be provided to develop Design Development Drawings for the purpose of defining the preliminary structural system, mechanical, plumbing, electrical, technology, and site utility systems. This will further refine the overall design and provide more definitive information for an updated cost estimate.

The following is the further description and order of activities for the Initial Engagement Phase.

Part A Initial Engagement Phase:

- A. Charrette Sessions:
 1. Facilitate a kick-off meeting with the Project Committee (including two Council members), the Library Board Planning and Facilities Committee, representatives from the Library staff programming committee, HBM Architects, and the GLMV Architecture Design Team.
 - a. Establish goals and objectives for the Project.

- b. Review the scope and updates of the Project.
 - c. Discuss the schedule and milestone dates.
 - d. Determine team member roles and responsibilities.
2. The GLMV team will prepare materials necessary for the charrette process, including preliminary information used in the preparation of the program and other previously developed information, assisting with identifying participants, preparing proposed agendas of activities for the charrette sessions, and developing tools to be used in the charrette sessions.
 3. Facilitate a week-long series of charrette work sessions which includes a program verification process with the Project Committee, the Library staff committee, HBM Architects and the GLMV Architecture Design Team.
 - a. Include in the charrette sessions key City/Library designated people in addition to those listed above for their input.
 - b. Validate the previously developed building and site program prepared by HBM.
 - c. Compare the building program to current trends in the library industry.
 - d. Assess the adequacy and efficiency of the current Central Library facility to provide spaces for the previously developed program.
 - e. Develop a concept design in three scalable Options of the building, and compare size and quality to the program requirements.
 - f. Identify the scope and use of technology of the building and compare to program requirements.
 - g. Discuss and identify other items and/or components that impact the use, function and cost of the library.
 - h. Prepare preliminary Project cost estimates for each of the Options.
 - i. Document the charrette sessions, including the Options and cost estimates.
 4. Develop a refined Concept Floor Plan, exterior massing model, and Site Plan to depict three Options for building and site program requirements and the estimated Project costs.
 5. City of Wichita and Wichita Library will review the options and provide to GLMV Architecture the approved Option and the estimated Project cost.
 6. The members of the GLMV Architecture team participating in one or more charrette sessions will be H3 (Ariel Fausto and Margaret Sullivan), Sasaki Associates (Steven Gray), Sextant Group Inc. (Brad Lewis), Professional Engineering Consultants, Dudley Williams & Associates, and both the internal cost estimator and the third party construction cost estimator to be selected.
- B. Schematic Design Development:
1. Based on the City's approval, GLMV Architecture will prepare the Schematic Design Drawings for the Project. This phase of the Project will include the further development of the design as it relates to Floor Plans, Building Elevations, and site development. In this phase further review and input meetings will be held with the specific groups identified by the City.
 2. The following is a further description and order of activities for the Schematic Design Phase.
 - a. From the approved concept design developed in the previous effort, prepare Schematic Design Drawings for the building and site in the form of Floor Plans, Building Elevations, Building Sections, typical Interior Elevations, and Site Plan.
 - b. Review the building design for art opportunities and relationships to surrounding urban environment.
 - c. Review the schematic designs with Staff programming team and Wichita Police Department CPTED experts.
 - d. Review schematic designs with the Project Committee.

- e. Review the schematic designs with the City Council in a public workshop session.
 - f. Review schematic designs with the Design Council.
 - g. Evaluate the building design with regard to energy efficiencies, sustainability, and maintenance and operational costs.
 - h. Evaluate the cost-effectiveness in a value engineering process.
 - i. Prepare an initial Code Plan and review with the identified code officials having jurisdiction.
 - j. Prepare an estimate of total Project costs, including construction and construction support costs.
 - k. Present in one or more presentations the Schematic Design for the City Council, Project Committee, Library Board, and Design Council (if needed) for approval.
 - l. The deliverables for Schematic Design Phase include:
 - (1) Site layout and preliminary utility information.
 - (2) Building orientation, forms, massing, materials, entries, and fenestration.
 - (3) Location and character of open public space, including rights of way.
 - (4) Parking study including pedestrian and vehicular circulation for both public and staff.
 - (5) Report on building and Site Plan's integration with the Downtown Master Plan.
 - (6) Layout and organization of spaces.
 - (7) Preliminary layout of shelving and furniture.
 - (8) 3D computer model using SketchUp technique with a series of views to explain the design.
 - (9) Identification of public art opportunities.
 - (10) Sustainable design strategies.
 - (11) Preliminary estimate of construction costs and FF&E.
 - (12) Timeline for providing Architectural Services through Construction Documents.
 - (13) Obtain approval of final Schematic Design for the Project with City Council.
- C. Design Development (25 percent Complete):
- 1. Based on the Owner's approval of the Schematic Design Documents, and any adjustments to the Project requirements and the budget, the Architect shall prepare 25 percent Design Development for the Owner's approval.
 - 2. The Design Development Documents shall illustrate and describe the development of the Schematic Design Documents and shall consist of Drawings listed below and diagrammatic layouts of buildings systems to preliminarily describe the size and character of the Project as to architectural, structural, mechanical and electrical systems and other elements as appropriate.
 - 3. The 25 percent Design Development Documents shall generally identify major materials and systems and establish, in general, their quality levels. In addition, a preliminary FF&E budget will be prepared to generally identify the quantity and quality levels of furnishings and equipment.
 - 4. The Architect will prepare a cost estimate for the 25 percent Design Development Documents that will generally estimate the cost of the work and will include some generic or allowance pricing for some components.
 - 5. The following is the further description and order of activities for Design Development Phase - 25 percent Complete:
 - a. Based on the approved Schematic Design, develop the preliminary design for the architectural, structural, mechanical, electrical, technology, and site civil systems.
 - b. Evaluate and review materials and systems with the Project Committee for selection.

- c. Develop the exterior and interior building design with the preliminary selected materials.
 - d. Prepare an estimate of construction and construction support costs.
 - e. Review the Design Development Documents with Information Technology (IT) Department and Parks and Recreation Department.
 - f. Review the Design Development Documents with the City Council, Library staff, Project Committee, Design Council, and Library Board.
 - g. Review the Design Development Documents with Building Services Division of the City of Wichita.
 - h. Prepare a preliminary Code Plan and review with identified code officials having jurisdiction.
6. The deliverables for Design Development at 25 percent complete include:
- a. Preliminary site improvements and utilities.
 - b. Building Floor Plans.
 - c. Building Elevations.
 - d. Building Sections.
 - e. Preliminary wall sections.
 - f. Interior layout of all shelving, furniture and cabinetry.
 - g. Preliminary structural system layout and preliminary information.
 - h. Preliminary mechanical system layout and preliminary information.
 - i. Preliminary electrical, lighting and technology systems layout and preliminary information on equipment.
 - j. Preliminary Outline Specifications.
- D. **Fees for Part A Services for Initial Engagement:** The above Architectural and Engineering Services will be provided for the stipulated sum of **\$402,285** plus Reimbursable Expenses. Reimbursable Expenses are normal business expenses described below, and are not anticipated to exceed **\$26,800**.

PART B - DESIGN DEVELOPMENT PHASE - 100 PERCENT COMPLETE

Based on the Owner's approval of the Initial Engagement Documents and any adjustments in the Project requirements and the budget, the Architect shall prepare 100 percent Design Development (DD) Documents in 3D Revit 2014 for the Owner's approval.

The DD Documents shall illustrate and describe the development of the Schematic Design Documents and shall consist of Drawings listed below and diagrammatic layouts of buildings systems to **fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems and other elements as appropriate. The DD Documents will identify specific materials and finishes for all of the major components and areas of the building.** The 100 percent DD Documents shall include outline Specifications that identify major materials and systems and establish their quality levels. In addition, a final FF&E budget will be prepared to identify the quantity and quality levels.

The Architect will prepare a cost estimate for the 100 percent DD Documents that will estimate the cost of the work and could include allowance pricing for a few components.

The following is the further description and order of activities for Design Development Phase - 100 percent complete:

- A. Design Development - 100 Percent Complete:
 - 1. After the activities of Schematic Design and DD - 25 percent complete, the following are activities for DD - 100 percent complete:
 - a. Develop the final design for the architectural, structural, mechanical, electrical, technology and site civil systems.

- b. Finalize the design of the exterior and interior building design with the final selection of materials.
 - c. Update Outline Specifications.
 - d. Further development of public art opportunities
 - e. Review meetings with IT Department and Recreation Department and Building Services.
 - f. Review meetings with the City Council, Library staff, Project Committee, Design Council, and Library Board.
 - g. Fully developed sustainable design strategies.
 - h. Preliminary estimate of energy use/utility costs.
 - i. Detailed estimate of construction costs with quantity takeoffs and unit prices plus FF&E for Design Development.
 - j. Updated timeline for completion of Architectural/Engineering Services through Construction Documents.
 - k. 3D computer model with animation and selected rendered views.
 - l. Timeline for bidding, contracting of services, and construction of the facility.
- B. **Fees for Part B Services for Design Development (100 Percent Complete):** The above Architectural and Engineering Services will be provided for a not-to-exceed sum of **\$298,964** plus Reimbursable Expenses. Reimbursable Expenses are normal business expenses described below, and are not anticipated to exceed **\$12,500**. Fees stated for Part B Services are subject to the **CONDITIONAL TERMS** listed below.

PART C - CONSTRUCTION DOCUMENTS PHASE

Part C Services will not commence until approval has been received for Design Development and the authorization to proceed from the City.

- A. Construction Documents:
 - 1. Prepare the final technical documents consisting of working Drawings and Specifications.
 - 2. Review the Code Plans with the identified code authorities having jurisdiction.
 - 3. Prepare an updated estimate of construction and construction support costs.
 - 4. Provide designated review meetings with the Project Committee and Building Services Division at the time the Construction Documents are 40 percent complete, 75 percent complete, 90 percent complete, and 100 percent complete.
 - 5. The deliverables for 90 percent complete Construction Documents include:
 - a. Construction Documents, including working Drawings and Specifications.
 - b. Updated timeline for contracting for services and constructing the facility.
 - c. Updated detailed estimate of energy use/utility costs.
 - d. Provide the final construction cost estimate and FF&E.
- B. **Fees for Part C Services for Construction Documents:** The above Architectural and Engineering Services will be provided for a not-to-exceed sum of **\$797,572** plus Reimbursable Expenses. Reimbursable Expenses are normal business expenses described below, and are not anticipated to exceed **\$22,000**. Fees stated for Part C Services are subject to the **CONDITIONAL TERMS** listed below.

PART D - BID AND CONSTRUCTION PHASE

Part D Services will not commence until the Project funding strategy has been determined and authorization to proceed has been granted by the City Council.

- A. **Bidding:**
 - 1. Assist the City with soliciting construction Bids from General Contractors.
 - 2. Answer questions and prepare Addenda for City issuance during the bidding process.
 - 3. Attend the pre-bid conference.
 - 4. Assist the City with evaluating the Bids received.
 - 5. Assist with preparing an Agreement between the City of Wichita and the successful Bidder.
- B. **Construction Administration:**
 - 1. Attend the pre-construction meeting.
 - 2. Review shop drawings and product submittals for conformance to design.
 - 3. Review on site the progress of the Work during approximately 25 site visits during the construction of the Project.
 - 4. Respond to questions and information requests from the General Contractor in the form of Requests for Information (RFI) and Architect's Supplemental Instructions (ASI).
 - 5. Review change orders submitted by the Contractor for accuracy and appropriateness.
 - 6. Attend construction meetings and document minutes for distribution.
 - 7. Review payment applications submitted by the Contractor for accuracy.
 - 8. Provide a punch list for items incomplete or not in compliance at the time the Project is Substantially Complete.
 - 9. Assist the City with Project closeout activities, including coordinating the testing and balancing of the heating and air conditioning system, delivering operational and warranty manuals, coordinating systems startup and training, and conducting a post-construction evaluation.
 - 10. Schedule and facilitate a post-occupancy/warranty review of the building and site for a date 11 months after Substantial Completion of the Project.
- C. **Fees for Part D – Services for Bid and Construction:** The above Architectural and Engineering Services will be provided for a not to exceed sum of **\$490,607** plus Reimbursable Expenses. Reimbursable Expenses are normal business expenses described below and are not anticipated to exceed **\$18,500**. Fees stated for Part D Services are subject to the "CONDITIONAL TERMS" listed below.

REIMBURSABLE EXPENSES

Professional Fees do not include Reimbursable Expenses. Reimbursable Expenses include reasonably economical rates for transportation, lodging, and subsistence for out-of-town consultants, reproduction of documents, shipping, postage, messenger or courier service charges, purchase of maps and similar documents, and other similar expenses as may be authorized by the City of Wichita. Billings for Reimbursable Expenses will be at cost plus 10 percent.

NOT INCLUDED IN THE ABOVE PROFESSIONAL FEE

The following Services are available, but are not included in the Professional Fee stated above:

- 1. Consultants other than those described above.
- 2. Site evaluations for sites other than the current selected site for the Project and the current central library site.
- 3. Evaluations of any hazardous materials or contaminated soils conditions.
- 4. Services to provide a civil site survey of topography, utility locations, buildings, or site improvements locations.

5. Services to provide soils investigation services for identifying soil types, capacities, characteristics, etc.

CONDITIONAL TERMS

The “not-to-exceed sums” listed in Part B, Part C, and Part D Services are subject to negotiation contingent upon the following;

- A. The final size and scope of the new library project result in a project different from the budget of \$30 million.
- B. The resultant library project is the remodel and/or building addition(s) to the current Central Library, or other designated existing building.

SCHEDULE

The Design Team is ready to begin. Attached is a preliminary schedule of activities with the milestone dates for the Part A Services of the Project. It is subject to timely selection of a third party construction cost estimator.

PAYMENT

GLMV Architecture, Inc. will submit to the City of Wichita on a monthly basis invoices for Professional Services performed under this Proposal. Payments shall be due and payable within 30 days from the date of the invoice.

ADDITIONAL SERVICES

Services requested beyond the scope of the Services described in this Proposal shall be considered Additional Services. Additional Services shall be provided if requested and authorized in writing by the City of Wichita and will be performed on a negotiated lump sum basis. Reimbursable Expenses for Additional Services shall be the same as outlined above for the Professional Fees.

**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.

**SUPPLEMENTAL AGREEMENT NO. 2
CONTRACT FOR ARCHITECTURAL PROGRAMMING SERVICES
NEW CENTRAL LIBRARY**

THIS SUPPLEMENTAL AGREEMENT No. 2, made and entered into this _____ day of _____, 2014,

BY AND BETWEEN

THE CITY OF WICHITA, KANSAS,
A Municipal Corporation, hereinafter
referred to as "**OWNER**"

AND

HOLZHEIMER BOLEK + MEEHAN
ARCHITECTS, LLC, hereinafter
referred to as "**CONSULTANT**"

WHEREAS, the **OWNER** and **CONSULTANT** entered into an Agreement between Owner and Consultant, dated April 21, 2009, "Contract For Architectural Programming Services For New Central Library", hereinafter referred to as the "**AGREEMENT**"; and

WHEREAS, the **OWNER** intends to select a separate architectural firm, hereinafter referred to as the "Design Team"; to provide architectural and engineering services for preparation of design and construction documents for the New Central Library, hereinafter referred to as the "**PROJECT**"; and

WHEREAS, the **OWNER** intends to appoint a Project Committee to oversee the work of the Design Team throughout the life of the **PROJECT**; and

WHEREAS, the **OWNER** desires to retain **CONSULTANT** to assist and advise the Project Committee throughout the life of the **PROJECT**; and

WHEREAS, **CONSULTANT** wishes to provide professional services to the **OWNER** by assisting and advising the Project Committee; and

WHEREAS, the **OWNER** desires to amend the **AGREEMENT** to include additional services related to the **PROJECT** as provided for in Section V, Paragraph C, Item 2 of said **AGREEMENT**; the amended agreement is hereinafter referred to as "**SUPPLEMENTAL AGREEMENT No. 2**".

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. The **AGREEMENT** is amended to include following supplemental provisions:

A. SCOPE OF SUPPLEMENTAL SERVICES:

CONSULTANT will be actively involved with the Project Committee throughout the life of the **PROJECT**. The Project Committee, **CONSULTANT** and Design Team will work together in a collaborative process to bring the best ideas forward in order to achieve the **OWNER'S** goal of both a great library and a great building. Therefore, **CONSULTANT** shall attend, either in person or through web-based computer conferencing, the scheduled progress meetings with the Design Team set out in Part A of the attached Scope of Services and meetings during other phases of the **PROJECT** as may be requested by the Project Committee.

CONSULTANT will utilize its library experience in offering thoughts and/or suggestions regarding how the Design Team's building design may affect library functions. **CONSULTANT** will advise the Project Committee if conflicts between the **PROJECT** design and the program are acceptable within the intent of the program or if they will have a negative impact on some aspect of the programmed operating efficiencies. In addition **CONSULTANT** will make recommendations to the Project Committee and the Design Team regarding interior finishes and furniture, furnishings and equipment (FF&E) for the new facility during design, construction and **PROJECT** closeout.

The specific duties included in this Scope of Supplemental Services shall be as noted in Part A of the attached "Scope of Services", EXHIBIT A, dated April 30, 2014. This Scope of Supplemental Services shall only be initiated and completed after the Design Team's contract has been finalized, approved and signed. The description and frequency of **CONSULTANT**'s services shall coordinate with and be complimentary to the Design Team's services and the **PROJECT** schedule. Parts B through D of the attached "Scope of Services", Exhibit A to this Agreement, are recommended actions, but the parties agree that these actions and activities, or any part of them, shall be provided only on an on-call basis, by written request.

B. PAYMENT FOR SUPPLEMENTAL SERVICES:

For all professional services as identified in SCOPE OF SUPPLEMENTAL SERVICES above, in "Scope of Services, Exhibit A", and in "Budget for Reimbursable Expenses, Exhibit B", **OWNER** agrees to pay an amount not to exceed _____ dollars (\$_____.00). An initial payment for Professional Services of five thousand dollars (\$5,000.00) shall be made upon execution of this Agreement and credited to the **OWNER'S** account at final payment. Additional payments for professional services and reimbursable expenses shall be paid monthly in response to invoices supplied by **CONSULTANT**.

C. TIME OF COMPLETION OF SUPPLEMENTAL SERVICES:

CONSULTANT agrees to provide its services in support of and in coordination with the project schedule and to not unnecessarily hamper or delay the progress of the **PROJECT** when performing duties as instructed/requested by the **OWNER** and/or

the Project Committee.

2. The **OWNER**, either directly or through the Project Committee, agrees to cooperate with **CONSULTANT** in considering recommendations, documents, drawings and data submitted and to make necessary decisions promptly to facilitate the progress of the **PROJECT** in compliance with the project schedule, and **OWNER** agrees to furnish promptly to **CONSULTANT** upon written request any approvals and instructions required to be given by **OWNER** to **CONSULTANT** under the terms of the **AGREEMENT**. **CONSULTANT** acknowledges that "prompt" decision making for **OWNER** must include time for ordinary procedural processing for action by the **OWNER'S** governing body.
3. In all other respects, the terms and provisions of the **AGREEMENT** between the parties shall remain in force and effect as the same were originally approved by the parties.

IN TESTIMONY WHEREOF, the parties hereto have executed this **SUPPLEMENTAL AGREEMENT** the day and year first above written.

CITY OF WICHITA, KANSAS

Carl G. Brewer
Mayor

ATTEST:

HOLZHEIMER BOLEK + MEEHAN
ARCHITECTS, LLC

Karen Sublett
City Clerk

by _____
Daniel T. Meehan, Jr. AIA Principal

APPROVED AS TO FORM:

Print Name

Gary E. Rebenstorf
Director of Law

Title



April 30, 2014

Wichita Central Library
Supplemental Agreement No. 2
EXHIBIT A

Scope of Services

NOTE: The description and frequency of our services described below needs to be coordinated with and complementary to the design team services and the project schedule.

PART A:

Initial Engagement

1. Research & Preparation for the Charrette

2. Charrette (Visit week of June 9th)
Week long work session

3. Refine Options & Cost Models / Review & Approval Process
Review, discussions, report to the library and city in support of the review & approval process
Optional visit for meeting - not included in proposed fee

Estimated Hours	72 - 96 hours
Proposed Fee	\$14,760 - \$19,680

Schematic Design

1. Assume a duration of 2 months

2. Two visits for work sessions / meetings
 - Mid-way through Schematic Design
 - Near or at completion of Schematic Design

3. Two WebEx remote video conferences for work sessions / progress updates

4. Time for reviews and preparation of comments

Estimated Hours	108 - 140 hours
Proposed Fee	\$22,140 - \$28,700

25% Design Development & Approval

1. Assume a duration of 1 month
2. Two visits for work sessions / meetings
 - Mid-way through this portion of Design Development
 - At the conclusion of this portion of Design Development
3. One WebEx remote video conference for work session / progress update
4. Time for reviews and preparation of comments

Estimated Hours	84 - 114 hours
Proposed Fee	\$17,220 - \$23,370

PART A: Proposed Fee Not to Exceed **\$71,750**

Note: Reimbursable expenses listed in Exhibit B are in addition to the fee

PART B: Complete Design Development

1. Assume a duration of 2 months: Propose that we visit for a work sessions and/or WebEx video conference each month.
2. Services provided as requested by the owner
3. Budget per visit for work sessions / meetings: **\$9,500**
 - Assume preparation and review time prior to visit
 - Assume 1 day for meetings
 - Includes \$2,000 for reimbursable travel expenses
4. Budget per WebEx remote video conference: **\$4,700**
 - Assume 1½ days of review and preparation
 - Assume ½ day conference
 - Assume ½ day follow up
5. Other requested services shall be invoiced using current hourly rates
 - 2014 consulting rate: principal \$235 per hour

PART B: Proposed Fee **TBD**

PART C: Construction Documents

6. Propose that we participate in the review of at least two of the four submittal milestones of 40%, 75%, 90% and 100%.
7. Services provided as requested by the owner
8. Budget per visit for work sessions / meetings: \$10,000
 - Assume preparation and review time prior to visit
 - Assume 1 day for meetings
 - Includes \$2,000 for reimbursable travel expenses
9. Budget per WebEx remote video conference: \$5,000
 - Assume 1½ days of review and preparation
 - Assume ½ day conference
 - Assume ½ day follow up
10. Other requested services shall be invoiced using current hourly rates
 - 2015 consulting rate: principal \$245 per hour

PART C: Proposed Fee **TBD**

PART D: Bidding, Construction, Close-Out

1. Services provided as requested by the owner
2. Budget per visit for work sessions / meetings: \$10,000
 - Assume preparation and review time prior to visit
 - Assume 1 day for meetings
 - Assume some follow up
 - Includes \$2,000 for reimbursable travel expenses
3. Budget per WebEx remote video conference: \$5,000
 - Assume review and preparation time prior
 - Assume ½ day conference
 - Assume some follow up
4. Other requested services shall be invoiced using current hourly rates
 - 2015 consulting rate: principal \$245 per hour

PART D: Proposed Fee **TBD**



April 30, 2014

Wichita Central Library
Supplemental Agreement No. 2
EXHIBIT B

Budget for Reimbursable Expenses

Reimbursable expenses will be invoiced at cost plus a 10% administrative fee.

Basis for Travel Expense Budget:

Airfare	coach class	used \$800 per person round trip
Rental Car	Budget mid-size	used \$85 per day
Hotel	Drury rates	used \$200 per person per night
Meals	per diem	used \$60 per person
Airport Transportation / Parking		used \$25 per day per person

PART A: Budget Summary

Initial Engagement	
1 visit for Charrette	\$4,000
Schematic Design	
2 visits	\$4,000
25% Design Development & Approval	
2 visits	\$4,000
Printing / Special Delivery	\$ 500
Contingency	\$1,500
(for airfare increases & added / extended visits)	
10% administrative fee	<u>\$1,400</u>
PART A TOTAL BUDGET	\$15,400

PART B, C & D: Budget

Exhibit A includes \$2,000 per visit travel expenses to provide a total fee budget for each *as requested* visit.

Printing, plotting and special delivery will be invoiced at cost plus a 10% administration fee.

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Quarterly Financial Report for the Quarter Ended March 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 may not reflect all the transactions and adjustments that relate to activities through March 31, 2014.

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 March 31, 2014.

Attachment: Quarterly Financial Report

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Swimming Pool Improvements (District V)
INITIATED BY: Department of Park and Recreation
AGENDA: New Business

Recommendation: Adopt the bonding resolution and authorize the initiation of the projects.

Background: The Park and Recreation Department maintains and operates 11 municipal pools within the City's park system with two closed at this time. The pools, decking, bath houses and other amenities are in various stages of disrepair and in need of improvements.

Analysis: The Adopted 2011 to 2020 Capital Improvement Plan (CIP) includes funding for swimming pool improvements and refurbishments. Improvements and refurbishments will protect the City's investment in Park and Recreation facilities/amenities and enhance its use by fee-paying users, neighborhood groups, and citizens. This funding would also provide Americans with Disabilities Act (ADA) facility compliance standards for the Harvest Pool bath house. Pools provide swimming lessons, competitive swim programs, aquatics classes, open swim, special events and an overall positive outlet for citizens. Staff recommends funding the following pool improvements:

- Harvest Pool – replace decking, bathhouse renovations, plumbing improvements and valve replacements.

Financial Considerations: The 2011-2020 Adopted Capital Improvement Program includes \$850,000 for improvements at Harvest Pool; \$75,000 in 2014 and \$775,000 in 2015. The source of funding is General Obligation bonds.

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

Recommendation/Action: It is recommended that the City Council 1) adopt the bonding resolution, 2) authorize the initiation of the projects, and 3) authorize all necessary signatures.

Attachment: Bonding resolution

RESOLUTION NO. 14-133

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF PUBLIC PARK IMPROVEMENTS.

WHEREAS, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council (the “Governing Body”) of the City has heretofore, pursuant to K.S.A. 13-1346, created the Wichita Board of Park Commissioners (the “Board”); and

WHEREAS, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

WHEREAS, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

Labor, material and equipment for improvements and refurbishments at Harvest Pool replacing the decking, bathhouse renovations, plumbing improvements and valve replacements.

for use by the Board (the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

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

Section 1. Project Authorization. It is hereby authorized, ordered and directed that the Project be acquired and/or constructed at an estimated cost of \$400,000 in accordance with specifications prepared or approved by the City of Wichita.

Section 2. Project Financing. All or a portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general 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 adoption of this Resolution, pursuant to Treasury Regulation §1.150-2.

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Governing Body.

ADOPTED by the City Council of the City of Wichita, Kansas, on May 13, 2014.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: Ordinances Amending Sections 3.30.020, 3.30.00, 3.30.075 and 5.48.050 and Creating Section 3.30.078 pertaining to Loitering Near Entertainment Establishments and Creating Chapter 5.05 Establishing the Old Town Entertainment District

INITIATED BY: Wichita Police Department and Law Department

AGENDA: New Business

Recommendation: Place Ordinances on first reading.

Background: In 2012, the City Council enacted ordinances regulating conduct outside of entertainment establishments. These ordinances were passed, in part, in response to incidents of violence which occurred near nightclubs, in particular in the Old Town Entertainment Area.

These ordinances have assisted law enforcement in efforts to deter crime in entertainment areas. Crime statistics reveal that crime overall has decreased in Old Town due to higher police presence, mounted patrols and the enforcement of City ordinances. However, crimes occurring at club closing times, from 1 a.m. to 3 a.m., have remained a problem for law enforcement. Loitering by individuals at or near the entrances and exits to clubs has posed enforcement challenges to the police.

The City of Wichita has continually encouraged the development of Entertainment Districts as areas where citizens can gather for dining and entertainment. The number of citizens who reside in Old Town has continued to increase. The City has an important government interest in protecting the health, safety and welfare of its citizens, to protect citizens from crime, preserve the character of these entertainment areas and deter the spread of blight.

To address the concerns of criminal activity in Old Town, Law Department staff has worked with Wichita Police Department personnel, Old Town Neighborhood Association members and the Wichita Downtown Development Corporation (WDDC) in development of the proposed ordinances to establish an Entertainment District. The ordinances presented represent a compromise of the issues presented by all stakeholders.

Analysis: In response to concerns from law enforcement as well as those of patrons, residents, and businesses in the Old Town Area, the following ordinance amendments are proposed:

1. Section 3.30.020 regarding definitions for entertainment establishments licensing ordinances is amended to specifically define those areas which are “adjacent to” establishments from which patrons must leave in an orderly manner. In 2012, club owners raised concerns that the ordinances lacked specificity. The amendments add clarity for these ordinance terms.
2. Section 3.30.070 is amended to make clear what staffing is allowed on licensed premises after the establishment is closed. This was another concern expressed by club owners

when the ordinances were previously amended.

3. Section 3.30.075 is amended to require individuals who have left the premises after 1:00 a.m. to do so in an orderly manner. Previously, the ordinances set the time for dispersing of crowds at 2:00 a.m. The time specified previously in the ordinance was too late and did not provide law enforcement the necessary tools to adequately clear areas immediately adjacent to clubs. Most clubs start the process of closing or dispersing patrons prior to 2:00 a.m.
4. Chapter 5.05 creates the Old Town Entertainment District. The chapter sets forth a number of criminal offenses for which a mandatory fine of \$500 will be assessed by the Municipal Court if they occur within the Old Town Entertainment District. The Old Town Entertainment District is defined as the area bounded by Central on the North, Douglas on the South, Wabash on the East and St. Francis on the West.

Those offenses for which a mandatory minimum fine of \$500 is required are:

- Chapter 5.10 – Assault and Battery
- Chapter 5.24 – Disorderly Conduct
- Chapter 5.26 – Drug Offenses
- Section 5.66.010 – Criminal Damage to Property
- Section 5.66.050 – Criminal Trespass
- Chapter 5.72 – Obstruction of Legal Duty
- Chapter 5.88 – Unlawful Use of Weapon
- Section 5.48.010 -Loitering
- Section 5.48.038-Failure to Vacate Premises of Entertainment Establishment
- Section 5.48.035-Loitering at Entertainment Establishments
- Section 5.12.010-Tampering with an Automobile
- Chapter 5.42-Larceny

In addition to the mandatory fine, the Court may also as a condition of probation “Map” or prohibit the person from re-entering the Old Town Entertainment District.

5. Section 5.48.035 is created to prohibit loitering which occurs outside of a club at or near the exit or entrance to an entertainment establishment. The ordinance prohibits individuals from standing for a period of time which exceeds three minutes, within 25 feet of the entrance or exit of an entertainment establishment between the hours of 11:00 p.m. and 3:00 a.m.

This provision is applicable to any entertainment establishment, regardless of its location within the City.

The individual must be given an opportunity to leave the premises upon request of the law enforcement officer.

The ordinance has a number of recognized exceptions:

1. Standing in line to enter the facility;
 2. Smoking in a designated smoking area;
 3. Waiting for a bus or trolley.
6. Section 5.48.038 is created to prohibit individuals from failing to disperse, in an orderly manner, at closing time from licensed entertainment establishments. These provisions were previously contained in Section 3.30.075. These are being moved to Chapter 5 with other criminal laws, rather than being included in the administrative licensing provisions

applicable to entertainment establishments.

7. Section 5.48.050 regarding the criminal penalties for loitering are amended to allow a defendant convicted of loitering to be sentenced to jail time and placed on probation. This is necessary so that the mapping conditions of Chapter 5.05 may be applied to these offenses.

Financial Considerations: None.

Legal Considerations: Ordinances have been prepared and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the ordinances and place them on first reading.

Attachments: Ordinances.

DELINEATED

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 3.30.020, 3.30.070, 3.30.075 AND 5.48.050 AND CREATING SECTIONS 5.05.010, 5.05.020, 5.05.030, 5.05.040, 5.48.035 AND 5.48.038 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE OLD TOWN ENTERTAINMENT DISTRICT.

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

SECTION 1. Section 3.30.020 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Definitions. The following words, as used in this Chapter, have the meanings set forth below:

'Abutting' means touching or directly contiguous to.

'Adjacent' means an area which is no further than twenty-five feet from the licensed premises, unless otherwise provided by a specific section of this Code.

'Alcoholic beverage' means any alcoholic liquor or any cereal malt beverage as those terms are defined by Sections 4.04.010(b) and 4.04.010(h) of the Code of the City of Wichita and amendments thereto.

'Art' or 'fine art' means works that are visual in nature, including, but not limited to, paintings, drawings, watercolors, graphics, sculptures, prints, ceramics, textiles and photos which are created by an artist to display or sell and produced or intended primarily for aesthetic purposes rather than utility.

‘Art gallery’ means any establishment whose primary purpose is to exhibit and/or offer for sale works of fine art or precious/semi-precious metals. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 200 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of an art gallery, such sales shall conform with all applicable state and city laws regulating the same.

‘Ambient music’ means low-level, background music, which is inaudible from any portion of the exterior of the premises. Ambient music does not include music played by a disc jockey, ‘DJ’ or music that is used for karaoke or other live performances. Ambient music may include music played by a jukebox, when such music is inaudible from any portion of the exterior of the premises.

‘Chief of Police’ means the Chief of the Wichita Police Department or his/her designee.

‘Coffee shop’ means any establishment whose primary purpose is to serve coffee or teas along with food items. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 100 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of a coffee shop, such sales shall conform with all applicable state and city laws regulating the same.

‘Entertainment’ means any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the

public is invited or allowed to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing patrons, including, but not limited to any of the following:

(a) Dancing by patron(s) to live or recorded music.

(b) The presentation of music played on sound equipment operated by an agent or contractor of the establishment, commonly known as ‘disc jockey’ or ‘DJ, or

(c) The presentation of live music whether amplified or un-amplified, or

(d) The presentation of music videos, music concerts or other similar forms of musical entertainment from any source, or

(e) Any amusement or event such as live music or other live performance which is knowingly permitted by any Entertainment Establishment, including, but not limited to, presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, dance acts, concerts, dances, live bands, karaoke or other live music.

‘Entertainment Establishment(s)’ means any event center or any person or entity which provides entertainment as defined by this chapter, or any person or entity which provides a venue for any such entertainment. Such term shall not include book readings, storytelling, the playing of ambient music, or other similar activities for which no fee is charged.

‘Entertainment License’ means a license obtained from the City, pursuant to the provisions of this Chapter, for the purposes of operating an Entertainment Establishment.

‘Event Center’ means premises which are frequently rented out for public or private activities that are not repeated on a weekly basis, and which are not open to the public on a daily basis at times other than when an event is scheduled.

‘Health Officer’ means the Director of ~~Environmental Services~~ Public Works and Utilities or his/her designee.

‘License’ means the authority to conduct the business of an entertainment establishment within the city limits.

‘Licensee’ means any person to whom a current license has been issued under this Chapter authorizing such person to conduct the business of an entertainment establishment within the city limits.

‘Loitering’ means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include, but not be limited to, standing around, hanging out, sitting, kneeling, sauntering or prowling.

‘Manager’ means a person, regardless of the job title or description, who is operating the establishment or who has discretionary powers to organize, direct, carry on, or control the operations of an Entertainment Establishment or teen club. Authority to engage in one or more of the following functions is prima facie evidence that a person is a Manager of the Entertainment Establishment or teen club:

- (a) Hire or terminate employees; or

(b) Contract for the purchase of furniture, equipment, or supplies, except for the occasional replenishment of stock; or

(c) Disburse funds of the business, except for the receipt of regularly replaced items of stock; or

(d) Make or participate in making policy decisions regarding operations of the Establishment.

‘Music’ as used in this Chapter shall not apply to radios or ambient music.

‘Music store / music only venue’ shall mean any establishment that sells musical instruments or offers music lessons or offers open jam session opportunities to musicians. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 100 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of a music store/music only venue, such sales shall conform with all applicable state and city laws regulating the same.

"Nonprofit dance" means any dance held by a fraternal, social, school, church or other nonprofit organization which is merely incidental to its principal purpose and where the general public is not solicited or permitted.

‘Non-profit organization’ means an organization or institution organized under Internal Revenue Code Section 501(c)(3) and recognized as a public charity or private foundation established for a religious, charitable, scientific, literary or public safety purpose.

‘Office of Central Inspection’ means and includes the Metropolitan Area Building and Construction Department.

‘Person’ means any individual, owner, operator, corporation, partnership, or association.

‘Photo identification’ means a valid driver’s license, non-driver identification card, government issued identification card or a current school identification card which contains the individual’s photograph.

‘Premises’ means any place where an entertainment establishment is operated or maintained and includes all hallways, bathrooms, parking areas, and other adjacent portions of the premises, which are under the control of the licensee or which are utilized by the licensee and are accessible to the public during operating hours.

‘Responsible Person’ means any person who is any of the following:

- a. The person who owns the Entertainment Establishment or teen club; or
- b. The person in charge of the Entertainment Establishment or teen club; or
- c. The person using the Entertainment Establishment or teen club under a special arrangement, contract or rental agreement; or
- d. The Entertainment Establishment’s manager, on-site supervisor, or other employee who is responsible for the operation of the establishment;

‘Superintendent’ means the ~~Superintendent of the Office of Central Inspection~~ Director of the Metropolitan Area Building and Construction Department or his or her designee.

‘Teen Club’ is any building or part or other enclosed place where a teen dance is held or teen dancing is permitted, not including:

- a. an accredited public or private school or college;
- b. property owned or controlled by the federal, state, or local government;
- c. a facility operated by an organization which has been recognized as exempt from federal income taxation when teen dancing is but an occasional activity incidental to the facility’s primary purposes.”

SECTION 2. Section 3.30.070 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: “**Hours of operation.**

- (a) It is unlawful for any licensee, owner, manager, or responsible person of a teen club to permit or allow entertainment between the hours of midnight and noon. No person, except an employee, licensee, owner, manager or responsible person shall be on the licensed premises of a teen club and the premises shall be closed between the hours of midnight and 7:00 a.m.
- (b) Other than those types of establishments set forth in subsection (d), it shall be unlawful for any licensee, owner, manager or responsible ~~party~~ person of an entertainment establishment to permit or allow entertainment between the hours of two a.m. and

noon. No person, except an employee, licensee, owner, manager or responsible person shall be on the licensed premises of an entertainment establishment and the premises shall be closed between the hours of 2:00 a.m. and 7:00 a.m.

- (c) For the purposes of this section, “employee” shall be defined as an individual who is employed by, works on or upon the licensed premises and receives financial compensation from the licensee.
- (d) For any establishment offering entertainment that is regulated by this chapter and is an art gallery, coffee shop or music store/music only venue as those terms are defined in Section 3.30.020, it shall be unlawful for any licensee, owner, manager or responsible ~~party~~ person of such an establishment to permit or allow entertainment between the hours of 2:00 a.m. and noon. Provided, however, music student recitals, music lessons, or closed recording sessions may be conducted at anytime the premises are open. Such premises shall be closed between the hours of 2:00 a.m. and 5:00 a.m.
- (e) At closing time, all entertainment establishments and teen clubs shall conform to the following procedures:
 - (1) The lights are to be fully illuminated;
 - (2) The music, dancing or other live entertainment is to be stopped;
 - (3) For establishments that sell and/or allow the serving and consumption of alcoholic liquor, all alcoholic liquor is to be

removed from all tables and no patron shall be in possession of any alcoholic liquor; and

- (4) Patrons are to be directed to vacate the premises in a timely and orderly manner as required by Section 3.30.075 of this Code.”

SECTION 3. Section 3.30.075 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: **“Failure to exit, disperse or vacate premises in a timely manner prohibited.**

- (a) No licensee, owner, manager or any responsible person of an entertainment establishment, shall permit or allow any person to remain in or upon the licensed premises of the entertainment establishment or remain in or upon the property abutting or immediately adjacent thereto between the hours of ~~two~~ one a.m. and seven a.m.
- (b) No licensee, owner, manager or any responsible person, shall permit or allow any person to remain in or upon the property of the licensed premises of a teen club or remain in or upon the property abutting or immediately adjacent thereto between the hours of midnight and seven a.m.
- (c) All licensees, owners, managers or any other responsible person, shall direct patrons to vacate in a timely and orderly manner the licensed premises of an entertainment establishment or teen club

and all property abutting or immediately adjacent thereto, including parking lots.

~~(d) No patron or other person shall fail to vacate the licensed premises of an entertainment establishment or teen club and/or property immediately adjacent thereto in a timely and orderly manner.~~

~~(e) No patron or other person shall willfully impede other persons from vacating the premises in a timely and orderly manner.~~

(d) All licensees, owners, managers or any other responsible person shall ensure that reasonable measures are in place and reasonable efforts are made to deter disorderly conduct on the property adjacent to the premises and to minimize damage, nuisance or other harm to such property arising out of disorderly conduct engaged in by patrons of the licensee or persons attempting or waiting to enter the licensed premises and/or leaving the licensed premises.

(e) (f) As used in this section, “vacate in a timely and orderly manner” means a person shall not remain in or upon the property or licensed premises, without just or legal cause, after being asked to leave by the owner, licensee, manager, responsible person or person entitled to possession or in control of the property thereof or willfully impede other persons from vacating the premises in a timely and orderly manner.

- (f) As used in this section, “reasonable measures” include, but are not limited to, requesting disorderly patrons outside of the establishment to disperse, calling law enforcement if a dispute escalates to a public disturbance, properly monitor and staff waiting lines to enter into the establishment, ban patrons who have been disorderly in the past, having sufficient and properly trained staff to patron ratios and having an approved safety plan in place as required by Section 3.30.080(b)(4).
- (g) Law enforcement officers of the City of Wichita or other individuals designated by the City may request persons to vacate, disperse, or leave property abutting or immediately adjacent ~~thereto~~ to a licensed establishment upon request of the owner of said property.
- (h) For the purposes of this section, law enforcement officers shall be considered to be “in control” of all city owned property including parking lots abutting or immediately adjacent to licensed premises.”

SECTION 4. Section 5.05.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“WHEREAS, the City of Wichita has encouraged and nurtured the development of the areas in and around the Old Town Entertainment District as an area where citizens live, work, do business, shop, access dining and participate in community events; and

WHEREAS, the City of Wichita has experienced unique enforcement issues and challenges with regard to the policing of this diverse entertainment area;

WHEREAS, the occurrence of criminal activity in the Old Town Entertainment District and areas adjacent thereto continues to occur despite law enforcement's increased efforts and presence within this district; and

WHEREAS, the City has determined that the presence of persons loitering in public places within the Old Town Entertainment District and committing crimes within this area contributes significantly to this unacceptable situation regarding the continued safety of patrons, residents and property in the area; and

WHEREAS, the City has an important governmental interest in protecting the health, safety, and welfare of its citizenry; to protect citizens from crime; preserve the quality of life; preserve property values and business investments; preserve the character of the Old Town Entertainment District and deter the spread of blight; and

WHEREAS, the City of Wichita enacts the ordinances codified in Chapter 5.05 to increase penalties for certain reoccurring crimes in this area as aggressive action necessary to preserve the streets and other public places within said District, the quality of life, property values, and business investments so that the public may use such places."

SECTION 5. Section 5.05.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Definitions. The following words, as used in this Chapter, have the meanings set forth below:

'Chief of Police' means the Chief of the Wichita Police Department or his/her designee.

‘Old Town Entertainment District’ means that area of the City of Wichita bounded by: Central on the North including all property abutting Central to the North, Wabash on the East, including all property abutting Wabash to the East, St. Francis Street on the West, including all property abutting St. Francis to the West, and Douglas on the South including all property abutting Douglas to the South.”

SECTION 6. Section 5.05.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Offenses within the Old Town Entertainment District.**

(a) Any person who is convicted of violating any of the following ordinances within the Old Town Entertainment District shall be subject to a mandatory minimum fine of \$500.00 unless a higher mandatory minimum fine is required to be imposed by the court by the provisions of underlying charging ordinance due to the defendant’s prior criminal history. Such minimum mandatory fine shall be in addition to any term of imprisonment set forth in the charging ordinance.

(1) Chapter 5.10 – Assault and Battery

(2) Chapter 5.24 – Disorderly Conduct

(3) Chapter 5.26 – Drug Offenses

(4) Section 5.66.010 – Criminal Damage to Property

(5) Section 5.66.050 – Criminal Trespass

(6) Chapter 5.72 – Obstruction of Legal Duty

(7) Chapter 5.88 – Unlawful Use of Weapon

- (8) Section 5.48.010 -Loitering
- (9) Section 5.48.038-Failure to Vacate Premises of Entertainment Establishment
- (10) Section 5.48.035-Loitering at Entertainment Establishments
- (11) Section 5.12.010-Tampering with an Automobile
- (12) Chapter 5.42-Larceny

(b) The imposition of the fines for offenses established in subparagraph (a) shall be mandatory and the court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof, except that the court may order that the defendant perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.01.210(e) and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

(c) Whenever a defendant has been placed on probation or parole from a conviction of an offense set forth in subsection (a), the municipal court judge may impose a mapping restriction upon such defendant. A mapping restriction prohibits the defendant from entering into or remaining within the Old Town Entertainment District. A copy of such mapped area shall be provided to the defendant and shall be entered as part of the court record and as a condition of the defendant's probation.

(d) Any person who is placed on probation or parole upon a conviction for an offense listed in subsection (a) who is subject to the mapping restrictions by the court and who knowingly and willfully fails to comply with the mapping restriction, shall be punished by a fine not to exceed \$1,000.00 or by imprisonment of not more than one year, or by both such fine and imprisonment.”

SECTION 7. Section 5.05.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Chief of Police Responsibilities in the Old Town Entertainment District.

(a) The Chief of Police and/or his designees are authorized to temporarily close streets in the Old Town Entertainment District or allow pedestrian only traffic on streets in order to facilitate the safe and orderly dispersal of patrons from the Old Town Entertainment District.”

SECTION 8. Section 5.48.035 of the Code of the City of Wichita, Kansas shall be created to read as follows: **“Loitering prohibited near Entertainment Establishments.**

(a) **Purpose.** The City of Wichita finds that persons who loiter outside an entertainment establishment negatively impact the public’s safety and welfare. The areas outside these establishments have become the site of assaults and batteries. Prohibiting loitering outside entertainment establishments will assist law enforcement and club security staff in protecting entertainment establishment patrons and may decrease the incidence of crimes at these

establishments by providing law enforcement officers with an additional crime-fighting tool that does not infringe on any person's basic rights.

(b) **Prohibition.** In the City of Wichita, it shall be unlawful for any person to loiter outside any entertainment establishment between the hours of 11 p.m. and 3 a.m.

(c) **Definitions.**

(1) For the purpose of this Section, unless a person is engaged in an activity described in Subsection (d), a person loiters outside an entertainment establishment when the person remains as a pedestrian for a period of over three (3) minutes within twenty-five (25) feet from the entrance or exit of the entertainment establishment or within twenty-five (25) feet from any point of any lines formed at the entrance to an entertainment establishment.

(2) For the purposes of this section, an entertainment establishment is defined as a place of entertainment which is licensed pursuant to Chapter 3.30 of the Code of the City of Wichita.

(d) **Application.** This ordinance is not intended to prohibit any person from engaging in any lawful activity that must be conducted within twenty-five (25) feet from the entrance or exit of an entertainment establishment or twenty-five (25) feet from any point of any lines

formed at the entrance to an entertainment establishment such as (1) waiting in line to enter an entertainment establishment, (2) being present in a smoking area designated by the entertainment establishment outside the entertainment establishment for patrons, or (3) waiting for a bus at a bus stop or waiting in line to enter a theater or other business. Lawful activity does not include any activity that can be conducted more than twenty-five (25) feet from the entrance or exit of the entertainment establishment or more than twenty-five (25) feet from any point on any lines formed at the entrance to an entertainment establishment.

(e) **Warning Required.** Before any law enforcement officer may cite or arrest a person under this subsection, the law enforcement officer or personnel working for the entertainment establishment must warn the person that his or her conduct is in violation of this ordinance and must give the person an opportunity to comply with the provisions of this ordinance.

(f) **Penalties.**

(1) **First Conviction.** Any person violating any provision of this Section shall be guilty of a misdemeanor and upon a first conviction shall be punished by a fine not to exceed \$500 or by imprisonment of not more than six months, or by both such fine and imprisonment.

(2) **Subsequent Convictions.** Any person violating any provision of this Section a second time, within a one year period, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$200 or more than \$500, or by imprisonment of not more than six months, or by both such fine and imprisonment. Any person violating any provision of this Section a third time, and each subsequent time, within a three year period shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$500 or more than \$1,000, or by imprisonment of not more than six months, or by both such fine and imprisonment.

(g) For the purposes of determining whether a conviction is a first, second, or subsequent conviction in sentencing under this section:

(1) 'Conviction' includes being convicted of a violation of this section, or entering into a deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging violation of this section.

(2) 'Conviction' includes being convicted of a violation of a law of this state or of another state or an ordinance of any municipality which prohibits the acts that this section prohibit or entering into a diversion or deferred judgment

agreement in lieu of further criminal proceedings in a case alleging a violation of such a law or ordinance;

(3) Only convictions occurring in the immediately preceding five years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offense, whichever is applicable.

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense.”

(h) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Section.”

SECTION 9. Section 5.48.038 of the Code of the City of Wichita, Kansas shall be created to read as follows: “**Failure to Disperse from Entertainment Establishment.**

(a) It shall be unlawful for any person to fail to vacate the licensed premises of an entertainment establishment and/or property abutting or adjacent thereto in a timely and orderly manner.

(b) It shall be unlawful for any person to willfully impede any other person from vacating the premises of an entertainment establishment in a timely and orderly manner.

(c) **Definitions.** For the purposes of this section, the words will have the meanings set for the below:

'Abutting' means touching or directly contiguous to.

'Adjacent' means an area which is no further than twenty-five feet from the licensed premises, unless otherwise provided by a specific section of this Code.

'Entertainment Establishment' means a place of entertainment which is licensed pursuant to Chapter 3.30 of the Code of the City of Wichita.

'Vacate in a timely and orderly manner' means a person shall not remain in or upon the property or licensed premises or the property adjacent or abutting the licensed premises, without just or legal cause, after being asked to leave by the owner, licensee, manager, responsible person or person entitled to possession or in control of the property thereof or willfully impede other persons from vacating the premises in a timely and orderly manner.

(d) Law enforcement officers of the City of Wichita or other individuals designated by the City may request persons to vacate, disperse, or leave property abutting or adjacent to a licensed entertainment establishment upon request of the owner of said property.

(e) For the purposes of this section, law enforcement officers shall be considered to be “in control” of all city owned property including parking lots abutting or adjacent to licensed premises.”

SECTION 10. Section 5.48.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Penalty.

Unless otherwise specified, Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars or one year imprisonment, or both such fine and imprisonment.”

SECTION 11. The originals of Sections 3.30.020, 3.30.075, 3.30.078 and 5.48.050 are hereby repealed.

SECTION 12. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

CLEAN

ORDINANCE NO. 49-751

AN ORDINANCE AMENDING SECTIONS 3.30.020, 3.30.070, 3.30.075 AND 5.48.050 AND CREATING SECTIONS 5.05.010, 5.05.020, 5.05.030, 5.05.040, 5.48.035 AND 5.48.038 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE OLD TOWN ENTERTAINMENT DISTRICT.

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

SECTION 1. Section 3.30.020 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"Definitions. The following words, as used in this Chapter, have the meanings set forth below:

‘Abutting’ means touching or directly contiguous to.

‘Adjacent’ means an area which is no further than twenty-five feet from the licensed premises, unless otherwise provided by a specific section of this Code.

‘Alcoholic beverage’ means any alcoholic liquor or any cereal malt beverage as those terms are defined by Sections 4.04.010(b) and 4.04.010(h) of the Code of the City of Wichita and amendments thereto.

‘Art’ or ‘fine art’ means works that are visual in nature, including, but not limited to, paintings, drawings, watercolors, graphics, sculptures, prints, ceramics, textiles and photos which are created by an artist to display or sell and produced or intended primarily for aesthetic purposes rather than utility.

‘Art gallery’ means any establishment whose primary purpose is to exhibit and/or offer for sale works of fine art or precious/semi-precious metals. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 200 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of an art gallery, such sales shall conform with all applicable state and city laws regulating the same.

‘Ambient music’ means low-level, background music, which is inaudible from any portion of the exterior of the premises. Ambient music does not include music played by a disc jockey, ‘DJ’ or music that is used for karaoke or other live performances. Ambient music may include music played by a jukebox, when such music is inaudible from any portion of the exterior of the premises.

‘Chief of Police’ means the Chief of the Wichita Police Department or his/her designee.

‘Coffee shop’ means any establishment whose primary purpose is to serve coffee or teas along with food items. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 100 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of a coffee shop, such sales shall conform with all applicable state and city laws regulating the same.

‘Entertainment’ means any single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the

public is invited or allowed to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing patrons, including, but not limited to any of the following:

(a) Dancing by patron(s) to live or recorded music.

(b) The presentation of music played on sound equipment operated by an agent or contractor of the establishment, commonly known as ‘disc jockey’ or ‘DJ, or

(c) The presentation of live music whether amplified or un-amplified, or

(d) The presentation of music videos, music concerts or other similar forms of musical entertainment from any source, or

(e) Any amusement or event such as live music or other live performance which is knowingly permitted by any Entertainment Establishment, including, but not limited to, presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, dance acts, concerts, dances, live bands, karaoke or other live music.

‘Entertainment Establishment(s)’ means any event center or any person or entity which provides entertainment as defined by this chapter, or any person or entity which provides a venue for any such entertainment. Such term shall not include book readings, storytelling, the playing of ambient music, or other similar activities for which no fee is charged.

‘Entertainment License’ means a license obtained from the City, pursuant to the provisions of this Chapter, for the purposes of operating an Entertainment Establishment.

‘Event Center’ means premises which are frequently rented out for public or private activities that are not repeated on a weekly basis, and which are not open to the public on a daily basis at times other than when an event is scheduled.

‘Health Officer’ means the Director of Public Works and Utilities or his/her designee.

‘License’ means the authority to conduct the business of an entertainment establishment within the city limits.

‘Licensee’ means any person to whom a current license has been issued under this Chapter authorizing such person to conduct the business of an entertainment establishment within the city limits.

‘Loitering’ means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include, but not be limited to, standing around, hanging out, sitting, kneeling, sauntering or prowling.

‘Manager’ means a person, regardless of the job title or description, who is operating the establishment or who has discretionary powers to organize, direct, carry on, or control the operations of an Entertainment Establishment or teen club. Authority to engage in one or more of the following functions is prima facie evidence that a person is a Manager of the Entertainment Establishment or teen club:

- (a) Hire or terminate employees; or

(b) Contract for the purchase of furniture, equipment, or supplies, except for the occasional replenishment of stock; or

(c) Disburse funds of the business, except for the receipt of regularly replaced items of stock; or

(d) Make or participate in making policy decisions regarding operations of the Establishment.

‘Music’ as used in this Chapter shall not apply to radios or ambient music.

‘Music store / music only venue’ shall mean any establishment that sells musical instruments or offers music lessons or offers open jam session opportunities to musicians. For the purposes of this chapter, such an establishment will have a legal capacity not to exceed 100 people and will not be licensed to sell any alcoholic beverage on a permanent basis. In the event that temporary alcoholic beverage sales are conducted on the premises of a music store/music only venue, such sales shall conform with all applicable state and city laws regulating the same.

"Nonprofit dance" means any dance held by a fraternal, social, school, church or other nonprofit organization which is merely incidental to its principal purpose and where the general public is not solicited or permitted.

‘Non-profit organization’ means an organization or institution organized under Internal Revenue Code Section 501(c)(3) and recognized as a public charity or private foundation established for a religious, charitable, scientific, literary or public safety purpose.

‘Office of Central Inspection’ means and includes the Metropolitan Area Building and Construction Department.

‘Person’ means any individual, owner, operator, corporation, partnership, or association.

‘Photo identification’ means a valid driver’s license, non-driver identification card, government issued identification card or a current school identification card which contains the individual’s photograph.

‘Premises’ means any place where an entertainment establishment is operated or maintained and includes all hallways, bathrooms, parking areas, and other adjacent portions of the premises, which are under the control of the licensee or which are utilized by the licensee and are accessible to the public during operating hours.

‘Responsible Person’ means any person who is any of the following:

- a. The person who owns the Entertainment Establishment or teen club; or
- b. The person in charge of the Entertainment Establishment or teen club; or
- c. The person using the Entertainment Establishment or teen club under a special arrangement, contract or rental agreement; or
- d. The Entertainment Establishment’s manager, on-site supervisor, or other employee who is responsible for the operation of the establishment;

‘Superintendent’ means the Director of the Metropolitan Area Building and Construction Department or his or her designee.

‘Teen Club’ is any building or part or other enclosed place where a teen dance is held or teen dancing is permitted, not including:

- a. an accredited public or private school or college;
- b. property owned or controlled by the federal, state, or local government;
- c. a facility operated by an organization which has been recognized as exempt from federal income taxation when teen dancing is but an occasional activity incidental to the facility’s primary purposes.”

SECTION 2. Section 3.30.070 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: “**Hours of operation.**

- (a) It is unlawful for any licensee, owner, manager, or responsible person of a teen club to permit or allow entertainment between the hours of midnight and noon. No person, except an employee, licensee, owner, manager or responsible person shall be on the licensed premises of a teen club and the premises shall be closed between the hours of midnight and 7:00 a.m.
- (b) Other than those types of establishments set forth in subsection (d), it shall be unlawful for any licensee, owner, manager or responsible person of an entertainment establishment to permit or allow entertainment between the hours of two a.m. and noon. No person, except an employee, licensee, owner, manager or

responsible person shall be on the licensed premises of an entertainment establishment and the premises shall be closed between the hours of 2:00 a.m. and 7:00 a.m.

- (c) For the purposes of this section, “employee” shall be defined as an individual who is employed by, works on or upon the licensed premises and receives financial compensation from the licensee.
- (d) For any establishment offering entertainment that is regulated by this chapter and is an art gallery, coffee shop or music store/music only venue as those terms are defined in Section 3.30.020, it shall be unlawful for any licensee, owner, manager or responsible person of such an establishment to permit or allow entertainment between the hours of 2:00 a.m. and noon. Provided, however, music student recitals, music lessons, or closed recording sessions may be conducted at anytime the premises are open. Such premises shall be closed between the hours of 2:00 a.m. and 5:00 a.m.
- (e) At closing time, all entertainment establishments and teen clubs shall conform to the following procedures:
 - (1) The lights are to be fully illuminated;
 - (2) The music, dancing or other live entertainment is to be stopped;
 - (3) For establishments that sell and/or allow the serving and consumption of alcoholic liquor, all alcoholic liquor is to be

removed from all tables and no patron shall be in possession of any alcoholic liquor; and

- (4) Patrons are to be directed to vacate the premises in a timely and orderly manner as required by Section 3.30.075 of this Code.”

SECTION 3. Section 3.30.075 of the Code of the City of Wichita, Kansas is hereby amended to read as follows: **“Failure to exit, disperse or vacate premises in a timely manner prohibited.**

- (a) No licensee, owner, manager or any responsible person of an entertainment establishment, shall permit or allow any person to remain in or upon the licensed premises of the entertainment establishment or remain in or upon the property abutting or adjacent thereto between the hours of one a.m. and seven a.m.
- (b) No licensee, owner, manager or any responsible person, shall permit or allow any person to remain in or upon the property of the licensed premises of a teen club or remain in or upon the property abutting or adjacent thereto between the hours of midnight and seven a.m.
- (c) All licensees, owners, managers or any other responsible person, shall direct patrons to vacate in a timely and orderly manner the licensed premises of an entertainment establishment or teen club and all property abutting or adjacent thereto, including parking lots.

- (d) All licensees, owners, managers or any other responsible person shall ensure that reasonable measures are in place and reasonable efforts are made to deter disorderly conduct on the property adjacent to the premises and to minimize damage, nuisance or other harm to such property arising out of disorderly conduct engaged in by patrons of the licensee or persons attempting or waiting to enter the licensed premises and/or leaving the licensed premises.
- (e) As used in this section, “vacate in a timely and orderly manner” means a person shall not remain in or upon the property or licensed premises, without just or legal cause, after being asked to leave by the owner, licensee, manager, responsible person or person entitled to possession or in control of the property thereof or willfully impede other persons from vacating the premises in a timely and orderly manner.
- (f) As used in this section, “reasonable measures” include, but are not limited to, requesting disorderly patrons outside of the establishment to disperse, calling law enforcement if a dispute escalates to a public disturbance, properly monitor and staff waiting lines to enter into the establishment, ban patrons who have been disorderly in the past, having sufficient and properly trained staff to patron ratios and having an approved safety plan in place as required by Section 3.30.080(b)(4).

- (g) Law enforcement officers of the City of Wichita or other individuals designated by the City may request persons to vacate, disperse, or leave property abutting or adjacent to a licensed establishment upon request of the owner of said property.
- (h) For the purposes of this section, law enforcement officers shall be considered to be “in control” of all city owned property including parking lots abutting or adjacent to licensed premises.”

SECTION 4. Section 5.05.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“WHEREAS, the City of Wichita has encouraged and nurtured the development of the areas in and around the Old Town Entertainment District as an area where citizens live, work, do business, shop, access dining and participate in community events; and

WHEREAS, the City of Wichita has experienced unique enforcement issues and challenges with regard to the policing of this diverse entertainment area;

WHEREAS, the occurrence of criminal activity in the Old Town Entertainment District and areas adjacent thereto continues to occur despite law enforcement’s increased efforts and presence within this district; and

WHEREAS, the City has determined that the presence of persons loitering in public places within the Old Town Entertainment District and committing crimes within this area contributes significantly to this unacceptable situation regarding the continued safety of patrons, residents and property in the area; and

WHEREAS, the City has an important governmental interest in protecting the health, safety, and welfare of its citizenry; to protect citizens from crime; preserve the quality of life; preserve property values and business investments; preserve the character of the Old Town Entertainment District and deter the spread of blight; and

WHEREAS, the City of Wichita enacts the ordinances codified in Chapter 5.05 to increase penalties for certain reoccurring crimes in this area as aggressive action necessary to preserve the streets and other public places within said District, the quality of life, property values, and business investments so that the public may use such places.”

SECTION 5. Section 5.05.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

"Definitions. The following words, as used in this Chapter, have the meanings set forth below:

‘Chief of Police’ means the Chief of the Wichita Police Department or his/her designee.

‘Old Town Entertainment District’ means that area of the City of Wichita bounded by: Central on the North including all property abutting Central to the North, Wabash on the East, including all property abutting Wabash to the East, St. Francis Street on the West, including all property abutting St. Francis to the West, and Douglas on the South including all property abutting Douglas to the South.”

SECTION 6. Section 5.05.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Offenses within the Old Town Entertainment District.**

(a) Any person who is convicted of violating any of the following ordinances within the Old Town Entertainment District shall be subject to a mandatory minimum fine of \$500.00 unless a higher mandatory minimum fine is required to be imposed by the court by the provisions of underlying charging ordinance due to the defendant's prior criminal history. Such minimum mandatory fine shall be in addition to any term of imprisonment set forth in the charging ordinance.

- (1) Chapter 5.10 – Assault and Battery
- (2) Chapter 5.24 – Disorderly Conduct
- (3) Chapter 5.26 – Drug Offenses
- (4) Section 5.66.010 – Criminal Damage to Property
- (5) Section 5.66.050 – Criminal Trespass
- (6) Chapter 5.72 – Obstruction of Legal Duty
- (7) Chapter 5.88 – Unlawful Use of Weapon
- (8) Section 5.48.010 -Loitering
- (9) Section 5.48.038-Failure to Vacate Premises of Entertainment Establishment
- (10) Section 5.48.035-Loitering at Entertainment Establishments
- (11) Section 5.12.010-Tampering with an Automobile
- (12) Chapter 5.42-Larceny

(b) The imposition of the fines for offenses established in subparagraph (a) shall be mandatory and the court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof, except that the court may order that

the defendant perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.01.210(e) and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

- (c) Whenever a defendant has been placed on probation or parole from a conviction of an offense set forth in subsection (a), the municipal court judge may impose a mapping restriction upon such defendant. A mapping restriction prohibits the defendant from entering into or remaining within the Old Town Entertainment District. A copy of such mapped area shall be provided to the defendant and shall be entered as part of the court record and as a condition of the defendant's probation.
- (d) Any person who is placed on probation or parole upon a conviction for an offense listed in subsection (a) who is subject to the mapping restrictions by the court and who knowingly and willfully fails to comply with the mapping restriction, shall be punished by a fine not to exceed \$1,000.00 or by imprisonment of not more than one year, or by both such fine and imprisonment."

SECTION 7. Section 5.05.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Chief of Police Responsibilities in the Old Town Entertainment District.

- (a) The Chief of Police and/or his designees are authorized to temporarily close streets in the Old Town Entertainment District or allow pedestrian only traffic on streets in order to facilitate the safe and orderly dispersal of patrons from the Old Town Entertainment District.”

SECTION 8. Section 5.48.035 of the Code of the City of Wichita, Kansas shall be created to read as follows: **“Loitering prohibited near Entertainment Establishments.**

- (a) **Purpose.** The City of Wichita finds that persons who loiter outside an entertainment establishment negatively impact the public’s safety and welfare. The areas outside these establishments have become the site of assaults and batteries. Prohibiting loitering outside entertainment establishments will assist law enforcement and club security staff in protecting entertainment establishment patrons and may decrease the incidence of crimes at these establishments by providing law enforcement officers with an additional crime-fighting tool that does not infringe on any person’s basic rights.
- (b) **Prohibition.** In the City of Wichita, it shall be unlawful for any person to loiter outside any entertainment establishment between the hours of 11 p.m. and 3 a.m.
- (c) **Definitions.**
 - (1) For the purpose of this Section, unless a person is engaged in an activity described in Subsection (d), a person loiters

outside an entertainment establishment when the person remains as a pedestrian for a period of over three (3) minutes within twenty-five (25) feet from the entrance or exit of the entertainment establishment or within twenty-five (25) feet from any point of any lines formed at the entrance to an entertainment establishment.

(2) For the purposes of this section, an entertainment establishment is defined as a place of entertainment which is licensed pursuant to Chapter 3.30 of the Code of the City of Wichita.

(d) **Application.** This ordinance is not intended to prohibit any person from engaging in any lawful activity that must be conducted within twenty-five (25) feet from the entrance or exit of an entertainment establishment or twenty-five (25) feet from any point of any lines formed at the entrance to an entertainment establishment such as (1) waiting in line to enter an entertainment establishment, (2) being present in a smoking area designated by the entertainment establishment outside the entertainment establishment for patrons, or (3) waiting for a bus at a bus stop or waiting in line to enter a theater or other business. Lawful activity does not include any activity that can be conducted more than twenty-five (25) feet from the entrance or exit of the entertainment establishment or more

than twenty-five (25) feet from any point on any lines formed at the entrance to an entertainment establishment.

(e) **Warning Required.** Before any law enforcement officer may cite or arrest a person under this subsection, the law enforcement officer or personnel working for the entertainment establishment must warn the person that his or her conduct is in violation of this ordinance and must give the person an opportunity to comply with the provisions of this ordinance.

(f) **Penalties.**

(1) **First Conviction.** Any person violating any provision of this Section shall be guilty of a misdemeanor and upon a first conviction shall be punished by a fine not to exceed \$500 or by imprisonment of not more than six months, or by both such fine and imprisonment.

(2) **Subsequent Convictions.** Any person violating any provision of this Section a second time, within a one year period, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$200 or more than \$500, or by imprisonment of not more than six months, or by both such fine and imprisonment. Any person violating any provision of this Section a third time, and each subsequent time, within a three year period shall be guilty of a misdemeanor and shall be punished by a fine of not less

than \$500 or more than \$1,000, or by imprisonment of not more than six months, or by both such fine and imprisonment.

(g) For the purposes of determining whether a conviction is a first, second, or subsequent conviction in sentencing under this section:

(1) ‘Conviction’ includes being convicted of a violation of this section, or entering into a deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging violation of this section.

(2) ‘Conviction’ includes being convicted of a violation of a law of this state or of another state or an ordinance of any municipality which prohibits the acts that this section prohibit or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such a law or ordinance;

(3) Only convictions occurring in the immediately preceding five years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offense, whichever is applicable.

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense.”

- (h) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Section.”

SECTION 9. Section 5.48.038 of the Code of the City of Wichita, Kansas shall be created to read as follows: “**Failure to Disperse from Entertainment Establishment.**

- (a) It shall be unlawful for any person to fail to vacate the licensed premises of an entertainment establishment and/or property abutting or adjacent thereto in a timely and orderly manner.
- (b) It shall be unlawful for any person to willfully impede any other person from vacating the premises of an entertainment establishment in a timely and orderly manner.
- (c) **Definitions.** For the purposes of this section, the words will have the meanings set for the below:

‘Abutting’ means touching or directly contiguous to.

‘Adjacent’ means an area which is no further than twenty-five feet from the licensed premises, unless otherwise provided by a specific section of this Code.

‘Entertainment Establishment’ means a place of entertainment which is licensed pursuant to Chapter 3.30 of the Code of the City of Wichita.

‘Vacate in a timely and orderly manner’ means a person shall not remain in or upon the property or licensed premises or the property adjacent or abutting the licensed premises, without just or legal cause, after being asked to leave by the owner, licensee, manager, responsible person or person entitled to possession or in control of the property thereof or willfully impede other persons from vacating the premises in a timely and orderly manner.

- (d) Law enforcement officers of the City of Wichita or other individuals designated by the City may request persons to vacate, disperse, or leave property abutting or adjacent to a licensed entertainment establishment upon request of the owner of said property.
- (e) For the purposes of this section, law enforcement officers shall be considered to be “in control” of all city owned property including parking lots abutting or adjacent to licensed premises.”

SECTION 10. Section 5.48.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Penalty.

Unless otherwise specified, any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars or one year imprisonment, or both such fine and imprisonment.”

SECTION 11. The originals of Sections 3.30.020, 3.30.075, 3.30.078 and 5.48.050 are hereby repealed.

SECTION 12. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 20th day of May, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: CUP2014-00006 – Amendment to Parcels 1 and 13 of the Westway Shopping Center Community Unit Plan (“CUP”) DP-21 to permit “recreation and entertainment, outdoor.” (District IV)

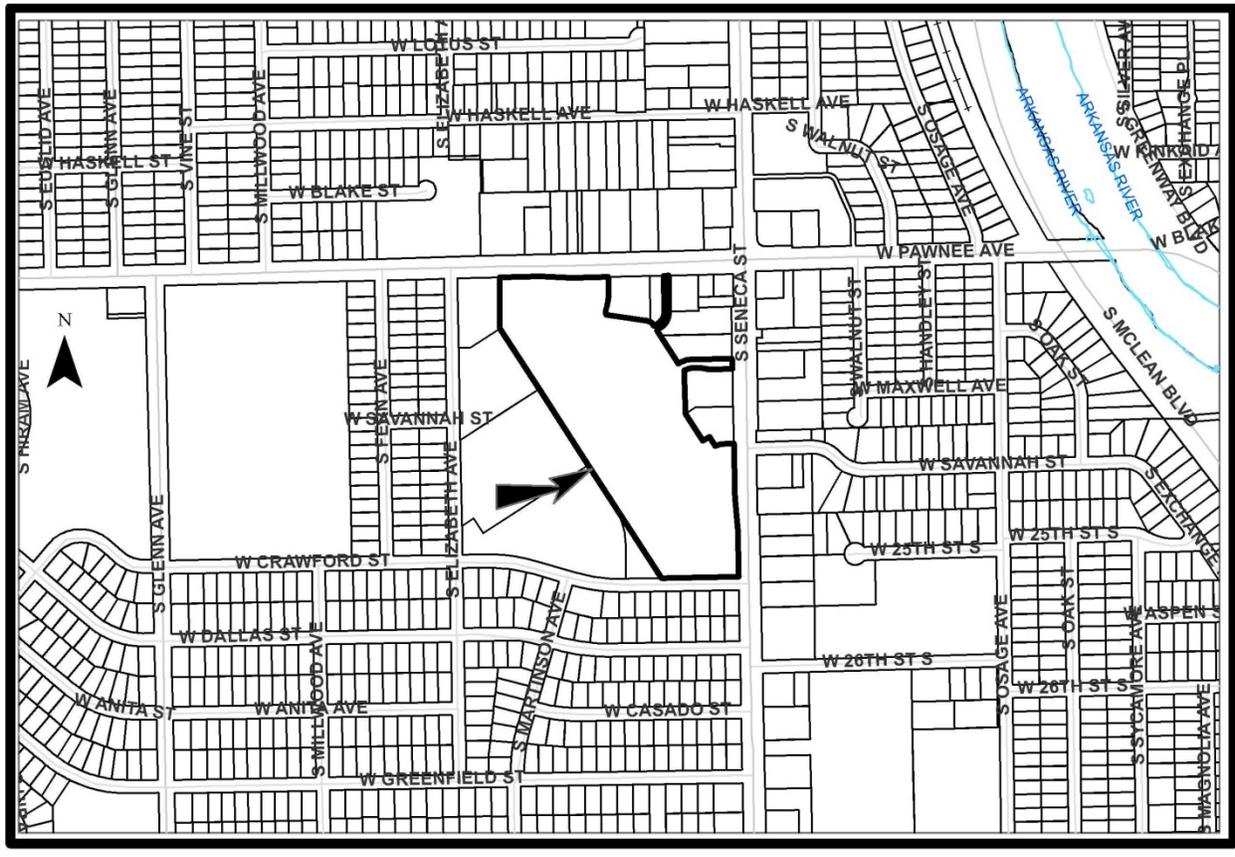
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-consent)

MAPC Recommendations: The Metropolitan Area Planning Commission recommended approval (8-1) subject to the development standards listed below.

MAPD Staff Recommendations: Planning staff recommended approval subject to the development standards listed below.

DAB Recommendations: The District Advisory Board recommended approval (7-0).



BACKGROUND: The application area is Parcels 1 and 13 of the Westway Shopping Center Community (CUP) DP-21 located at the southwest corner of the intersection of West Pawnee Road and South Seneca Street. Parcels 1 (11.36 acres) and 13 (6.90 acres) are zoned LC Limited Commercial (LC) subject to the development standards contained in CUP DP-21. The application area is developed with several thousand square feet of shopping center and a large parking lot. Uses permitted on both parcels include: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The applicant has requested the following use be added to the list of permitted uses “Outdoor entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. Owner is to obtain all necessary licenses and permits.”

For several years, the shopping center has allowed a carnival to operate in the parking lots located in the application area. Recently it came to the attention of the carnival operator that the center was not properly zoned to permit a carnival. With the permission of the property owner, the carnival operator has retained an agent to file this request to operate a carnival for up to 14 days, twice a year on Parcels 1 and 13 of the Westway Shopping Center. (If approved, hours of operation for a given day will be regulated by the Community Event Permit.)

Community Unit Plan DP-21 contains 14 parcels. The following uses are permitted in all of the parcels not associated with the current application: offices, personal services and retail sales as permitted by the base zoning. Some of the parcels not associated with this request also permit restaurants and financial institutions. Nearly all of CUP DP-21 is zoned LC except for a narrow border along the west and south side of the CUP that is zoned GO General Office.

All of the parcels located immediately to the east (Parcels 5-12) and west (Parcels 2A, 2B, 3 and 4) of the application area are located within DP-21, and are part of the Westway Shopping Center. The parcels located within DP-21, but not included in the application area are primarily zoned LC, subject to the development standards contained in DP-21, and are developed with a bank, restaurants, post office or are vacant. Properties located south of the shopping center, across Crawford Street, are zoned SF-5 Single-family Residential (SF-5), and are developed with single-family residences. Land located north of the site are zoned LC except for one ownership that is zoned B Multi-family Residential (B) and SF-5. The LC zoned properties located to the north are developed with a variety of commercial, retail and restaurant uses. The B and SF-5 zoned property is developed with a church.

Analysis: At the District Advisory Board (DAB) IV meeting held on April 7, 2014, the DAB voted to approve (7-0) the request per staff recommendations.

On April 10, 2014, the Metropolitan Area Planning Commission (“MAPC”) reviewed the application. The MAPC voted (8-1) to approve the application subject to staff recommendations:

1. The amendment permits on Parcels 1 and 13 of DP-21: outdoor entertainment, in the form of carnival rides, games and concessions that shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. All required permits and licenses, including but not limited to a Community Event Permit and temporary building permits, shall be obtained prior to the placement or installation of any equipment associated with carnival rides, games or concessions, except the number of days for the use(s) permitted by this amendment shall be controlled by the CUP and not by UZC Sec. III-B.14.e(4). Required inspections shall be obtained prior to opening the carnival rides, games and concessions to the public.
2. The amendment does not permit, without proper approval, the display, sales or storage of vehicles, equipment or other merchandise not typically associated with carnival rides, games and concessions. However, nothing in this condition is to prohibit the outdoor display, sale or storage of merchandise customarily offered for sale by businesses occupying Parcels 1 and 13 of DP-21 provided any such activities are legally conducted and have been properly reviewed and approved

- as may be required by any applicable codes or regulations.
3. No temporary equipment, trailers, buildings or appurtenances shall be located within any setbacks or easements.
 4. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Superintendent of Central Inspection. Portable bathroom facilities are permitted only with the approval of the MABCD.
 5. All uses approved by this CUP shall be located on paved surfaces.
 6. The use of outdoor speakers or amplifiers is permitted so long as they are used in conformance the City's noise ordinance.
 7. As a condition of obtaining the required permits for the uses permitted by this amendment, the applicant shall demonstrate that enough parking remains to serve permanent uses located on the site once the carnival rides, games and concessions have been located on the site.
 8. The transfer of title of all or any portion of the land included within the CUP does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
 10. If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amendment to the CUP is null and void.

There was not anyone present at the MAPC meeting other than the agent to speak on the item; however, two area residents submitted unsigned emails that were provided to the MAPC. The emails expressed opposition to the proposed amendment. In general the authors of the emails state that the carnival: attracts customers that are not neighborhood residents who do not respect the neighborhood and do not stay on the east side of the shopping center where the carnival is located; promotes adolescent crime such as underage drinking and graffiti; increases late night foot-traffic through the neighborhood that inhibits sleep and attracts teenagers who stay out past curfew, make noise, obscene gestures and urinate in public. The carnival is an eye sore to the area; there is not enough police presence and there are other locations better suited to its operation.

After the MAPC meeting, one of the authors of the emails submitted a signed email that complies with code requirements to establish an "appeal" of the MAPC's action, which requires City Council review of the proposed amendment. Unlike zoning cases that can be "protested," amendments to CUPs can only be appealed, and do not trigger the potential for a supermajority vote to approve the request. Therefore, the City Council may approve or deny the request with a simple majority vote.

Financial Considerations: Approval of the request will not create any atypical financial considerations to the City.

Legal Considerations: The Law Department has reviewed and approved the amendment as to form. An amendment to a CUP does not require an ordinance or a resolution.

Recommendation/Actions: Adopt the findings of the MAPC and approve the amendment to Parcels 1 and 13 of the Westway Shopping Center CUP DP-21 to permit "recreation and entertainment, outdoors" subject to the recommended conditions (simple majority vote).

Attachments: CUP drawing, MAPC minutes, DAB memorandum, appeals map, Caballero email and Struble email.

**EXCERPT MINUTES OF THE APRIL 10, 2014 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: CUP2014-00006 – Westway Plaza LLC/Jeff Griffith request a City Amendment to CUP Community Unit Plan DP-21 to permit "recreation and entertainment outdoor on property described as:

Lot 16 EXCEPT the North 10 feet, Block R; 1st Addition to Woodlawn Village, Sedgwick County, Kansas.

BACKGROUND: The application area is Parcels 1 and 13 of the Westway Shopping Center Community (CUP) DP-21 located at the southwest corner of the intersection of West Pawnee Road and South Seneca Street. Parcels 1 (11.36 acres) and 13 (6.90 acres) are zoned LC Limited Commercial (LC) subject to the development standards contained in CUP DP-21. The application area is developed with several thousand square feet of shopping center and a large parking lot. Uses permitted on both parcels include: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The applicant has requested the following use be added to the list of permitted uses "Outdoor entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. Owner to obtain all necessary licenses and permits."

For several years, the shopping center has allowed a carnival to operate in the parking lots located in the application area. Recently it came to the attention of the carnival operator that the center was not properly zoned to permit a carnival. With the permission of the property owner, the carnival operator has retained an agent to file this request to operate a carnival for up to 14 days, twice a year on Parcels 1 and 13 of the Westway Shopping Center. (If approved, hours of operation for a given day will be regulated by the Community Event Permit.)

Community Unit Plan DP-21 contains 14 parcels. The following uses are permitted in all of the parcels not associated with the current application: offices, personal services and retail sales as permitted by the base zoning. Some of the parcels not associated with this request also permit restaurants and financial institutions. Nearly all of CUP DP-21 is zoned LC except for a narrow border along the west and south side of the CUP that is zoned GO General Office.

All of the parcels located immediately to the east (Parcels 5-12) and west (Parcels 2A, 2B, 3 and 4) of the application area are located within DP-21, and are part of the Westway Shopping Center. The parcels located within DP-21, but not included in the application area are primarily zoned LC, subject to the development standards contained in DP-21, and are developed with a bank, restaurants, post office or are vacant. Properties located south of the shopping center, across Crawford Street, are zoned SF-5 Single-family Residential (SF-5), and are developed with single-family residences. Land located north of the site are zoned LC except for one ownership that is zoned B Multi-family Residential (B) and SF-5. The LC zoned properties located to the north are developed with a variety of commercial, retail and restaurant uses. The B and SF-5 zoned property is developed with a church.

CASE HISTORY: On November 5, 1957, the Board of City Commissioners (today's City Council) approved Z-0029, which was a zone change from the AA (today's SF-5 Single-family Residential), RB (today's MF-29 Multi-family Residential) and LC districts to the BB (today's GO General Office) and LC districts. On July 1, 1975, the Board of City Commissioners approved Z-1698, which was a zone change from the BB (today's GO) and LC districts to the R-6 (today's MF-29) district. However, case number Z-1698 was ultimately denied and closed due to failure to plat the property. Board of Zoning Adjustment case BZA 14-84 granted a "use exception" to permit a nursery and garden center. On June 11, 1985, the Board of City Commissioners approved an amendment to DP-21 that created individual parcels for buildings fronting Seneca Street and Pawnee Road, and zone change Z-2687, BB (today's GO) to LC. In 1986 an administrative interpretation was granted to allow the construction of a canopy within the 90-foot building setback located along Seneca Street. Vacation case V-2037 (June 12, 1997) vacated a portion of a platted 90-foot building setback. On July 21, 1997, an administrative adjustment to Parcel 10 permitted an automatic teller machine within the aforementioned vacated platted building setback. On April 29, 1998, an administrative adjustment was approved to reduce the building setback from 90 feet to 29 feet on Parcel 11. On August 24, 1998, an administrative adjustment to reduce the building setback from 90 feet to 30 feet on Parcel 1 was approved. Another administrative adjustment was approved that reduced the building setback from 90 to 2 feet for another portion of Parcel 1. On September 13, 1999, an administrative adjustment was approved to permit the relocation of a "nursery and garden center" on Parcel 1. On January 5, 2001, an administrative adjustment was approved to divide the original Parcel 2 into two parcels, Parcels 2A and 2B, and to establish the development standards associated with the two parcels. On August 19, 2003, an administrative adjustment was approved to permit a "vocational school" on Parcel 1. On November 26, 2003, an administrative adjustment to add "restaurant" to the list of permitted uses on Parcel 1, and to reduce building setbacks on Parcels 1, 5, 6, 7, 8, 9, 10, and 11 to 35 feet to correspond with VAC2003-00048 that reduced a platted setback located on the same parcels just noted.

ADJACENT ZONING AND LAND USE:

North: LC, B, SF-5; a variety of commercial, retail and restaurant uses, church

South: SF-5; single-family residential

East: LC; a variety of commercial, retail and restaurant uses, church

West: SF-5; single-family residential

PUBLIC SERVICES: The site is served by all municipal and franchise facilities. Both South Seneca and West Pawnee are paved four-lane arterial streets. The Pawnee Avenue and Seneca Street intersection carries on an average day 18,000 to 22,400 vehicle trips.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts the site as appropriate for "local commercial" uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal services uses that do not have a significant regional market draw. The range of uses include: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small-scale, light manufacturing uses.

RECOMMENDATION: Based upon the information available at the time this report was prepared, it is recommended to approve the request and add the following language: "Outdoor

entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. All required permits or licenses shall be obtained prior to the placement or installation of any equipment associated with carnival rides, games or concessions.”

The recommendation is subject to the following conditions:

1. The amendment permits on Parcels 1 and 13 of DP-21: outdoor entertainment, in the form of carnival rides, games and concessions that shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. All required permits and licenses, including but not limited to a Community Event Permit and temporary building permits, shall be obtained prior to the placement or installation of any equipment associated with carnival rides, games or concessions, except the number of days for the use(s) permitted by this amendment shall be controlled by the CUP and not by UZC Sec. III-B.14.e(4). Required inspections shall be obtained prior to opening the carnival rides, games and concessions to the public.
2. The amendment does not permit, without proper approval, the display, sales or storage of vehicles, equipment or other merchandise not typically associated with carnival rides, games and concessions. However, nothing in this condition is to prohibit the outdoor display, sale or storage of merchandise customarily offered for sale by businesses occupying Parcels 1 and 13 of DP-21 provided any such activities are legally conducted and have been properly reviewed and approved as may be required by any applicable codes or regulations.
3. No temporary equipment, trailers, buildings or appurtenances shall be located within any setbacks or easements.
4. Restroom facilities for employees must be provided and may be provided by agreement with a permanent use in the center upon approval of the Superintendent of Central Inspection. Portable bathroom facilities are permitted only with the approval of the MABCD.
5. All uses approved by this CUP shall be located on paved surfaces.
6. The use of outdoor speakers or amplifiers is permitted so long as they are used in conformance the City’s noise ordinance.
7. As a condition of obtaining the required permits for the uses permitted by this amendment, the applicant shall demonstrate that enough parking remains to serve permanent uses located on the site once the carnival rides, games and concessions have been located on the site.
8. The transfer of title of all or any portion of the land included within the CUP does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the amendment to the CUP, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amendment to the CUP is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All of the parcels located immediately to the east (Parcels 5-12) and west (Parcels 2A, 2B, 3 and 4) of the application area are located within DP-21, and are part of the Westway Shopping Center. The parcels located within DP-21 but not included in the application area are primarily zoned LC, subject to the development standards contained in DP-21, and are developed with a bank, a post office, restaurants or are vacant. Properties located south of the shopping center, across Crawford Street, are zoned SF-5, and are developed with single-family residences. Land located north of the site are zoned LC except for one ownership that is zoned B and SF-5. The LC zoned properties located to the north are developed with a variety of commercial, retail and restaurant uses. The B and SF-5 zoned property is developed with a church. All four corners of the intersection of Pawnee Avenue and Seneca Street are zoned LC and developed with retail or commercial uses. Pawnee Avenue and Seneca Street are arterial streets. The Pawnee and Seneca intersection carries on an average day 18,000 to 22,400 vehicle trips.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned LC subject to the development standards contained in DP-21. Specific uses permitted on the subject parcels are: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The site is developed with several thousand square feet of shopping center. The center could continue to have economic value as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: In as much as the carnival has operated at this location in the past without known complaints, approval of the request should not detrimentally impact nearby properties. The maximum number of days in which the carnival could operate is limited to 28 days a year, and the recommended conditions of approval should minimize potential 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 permit the owner of the center and the carnival operator the opportunity to realize additional economic return and to provide southwest Wichita with carnival entertainment. Denial would be a loss of economic opportunity to both the center and the carnival operator.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” depicts the site as appropriate for “local commercial” uses. The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal services uses that do not have a significant regional market draw. The range of uses include: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small-scale, light manufacturing uses. On a temporary basis, approval to allow a carnival to operate at this location can be consistent with adopted land use plans and policies.

6. Impact of the proposed development on community facilities: None identified.

DALE MILLER, Planning Staff presented the Staff Report. He referred to e-mail handouts opposed to the application.

GOOLSBY asked about hours of operation and if the Community Event Permit regulated that.

MILLER said he believed hours could be as late as 2:00 a.m., but he was not sure about that.

DENNIS said since this site is located next to a neighborhood he would like to verify how late the applicant is allowed to operate.

JEFF GRIFFITH, ATTORNEY/AGENT FOR APPLICANT WESTWAY PLAZA AND OTTOWAY AMUSEMENT referred to the site map and said the carnival will occur in the north end of the parking lot in Parcel 1 with a small portion spilling over into Parcel 13. He said Ottoway Amusement has been in business since the 1980's and has set up at this location on this route since then, with the exception of several years when the economy was not good. He said they have been at this location for the last six years. He said typically they operate Friday to Sunday. He said last year it was discovered that the zoning on this property only allowed for two days a month. He mentioned the difficulty involved in setting up and tearing down a carnival. He said this use is not anything that has not been going on at the location. He said they received one phone call from a citizen concerned that they were going to build a Joyland at the site. He concluded by saying that they agree with the conditions listed in the Staff Report.

GOOLSBY asked for the specific rationale for setting up at this site as opposed to Lawrence Dumont Stadium.

GRIFFITH indicated Ottoway sets up a Lawrence Dumont Stadium during River Festival. He said other locations include a shopping center on the east side, this site and Builders Square at one time; however, they lost the Builders Square site. He said they also travel in southern Kansas and Northern Oklahoma.

FOSTER asked about security at the venue.

GRIFFITH indicated they hire off-duty Wichita Police personnel and added that the permit also requires that they provide security.

KLAUSMEYER asked the agent to address the comments made by the surrounding neighbors regarding trespassing, being threatened by carnival clientele, etc.

GRIFFITH commented that this is a class operation that has been at this site for many years. He added that there is a pretty substantial on-site security presence; however, they cannot prevent kids or other patrons of the carnival from walking down residential streets or entering the residential area surrounding the venue.

Staff indicated that DAB IV unanimously approved the application.

MILLER suggested including the hours of operation, whether it be midnight or 2:00 a.m, as part of the conditions if the Commission wants to be more specific than whatever the event license requires.

GOOLSBY mentioned that he lives down the street and that the area becomes a zoo whenever the carnival is there.

GRIFFITH indicated that they typically close by midnight.

There was considerable discussion regarding hours of operation and legal staff determined that the event permit does not set the hours of operation. Hours established by ordinance were 10:30 p.m. weekdays and midnight on weekends.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **NEUGENT** seconded the motion, and it carried (8-1).

GOOLSBY – No.



**INTEROFFICE
MEMORANDUM**

TO: MAPC
FROM: Case Bell, Community Liaison
SUBJECT: CUP2014-00006: Amendment to Parcels 1 and 13 of the Westway Shopping Center Community Unit Plan (CUP) DP-21

DATE: April 8, 2014

On April 7, 2014, the District IV Advisory Board considered a request to amend Parcels 1 and 13 of the Westway Shopping Center Community (CUP) DP-21 located at the southwest corner of the intersection of West Pawnee Road and South Seneca Street. Parcels 1 (11.36 acres) and 13 (6.90 acres) are zoned LC Limited Commercial (LC) subject to the development standards contained in CUP DP-21. The application area is developed with several thousand square feet of shopping center and a large parking lot. Uses permitted on both parcels include: shopping center and associated tires, batteries and accessory stores, supermarket, financial institutions, offices, personal services, retail sales as permitted by the base zoning, vocational school and restaurant. The applicant has requested the following use be added to the list of permitted uses "Outdoor entertainment, in the form of carnival rides, games and concessions, shall be allowed for a period of 14 consecutive days between the dates of March 1st and April 30th and for an additional 14 consecutive days between the dates of October 1st and November 30th each year. Owner to obtain all necessary licenses and permits."

Jess McNeely, MAPD, also reported that in the years since this shopping center has had the carnivals, there have been no negative incidences.

There were no questions from the DAB.

The DAB IV members voted 7-0 to recommend approval of the request subject to the 10 listed conditions and with the requested additional language.



From: Brandl Caballero [brandlawn81@hotmail.com]
Sent: Wednesday, April 09, 2014 7:40 PM
To: Miller, Dale
Subject: Case # CUP2014-00006

RECEIVED

APR 24 2014

CITY CLERK OFFICE

Dale,

I spoke with you earlier today and wanted to also send my statements via email to be presented in tomorrow's April 10th at 1:30's MAPC meeting.

You said that the carnival is requesting an amendment so that they can have the carnival at 2541 S. Seneca 2 times a year instead of the once a year.

I oppose this amendment due to the late hours that the carnival runs and the number of people pouring into the neighborhood when the carnival is located here. Just last Sunday at 8:30 p.m. I pulled out of my driveway which is directly across the street from the backside of the shopping center and noticed about 10 teens standing in a circle looking conspicuous. I knew the carnival was in the shopping center on the front side but all of these kids were behind the shopping center. My guess was that they were supposed to be at the carnival but decided to do things they weren't supposed to and went out back. I have lived here 7 years and every time the carnival is over at the shopping center we have all kinds of people lingering in the back of the buildings, liquor bottles found in my yard and spray paint on the shopping center buildings when the carnival finally leaves after 2 weeks. I drove over slowly driving by the kids and they all started walking behind a large trashcan with their heads down like they were doing something they weren't supposed to so I turned around and drove back over to all of them and rolled down the window and said, "I hope you are not planning on doing anything stupid because the cops have been around a lot." They hurried up and headed back toward the carnival. I only wish I had been telling the truth. The sad reality is that I never see cops over here when the carnival is here and that is exactly what we need if they are going to be granted another 2 weeks on top of the 2 they already have.

I am absolutely 100% against the carnival being here during Halloween. This neighborhood has enough crimes, burglaries, thefts and home break-ins without adding a reason for more people to be in the area after dark on the weekends. My home was broken into. My next door neighbor's house broken into and everything stolen when she was in a coma in the hospital. The number of teens on the streets during the carnival is very sad to me. Last weekend 2 of the teens were standing directly across the street from me writing on the brick wall behind the shopping center. I saw them head to the carnival and then about an hour later they were pushing a couple of old tires down the street that they had found behind the shopping center sitting by the trash cans. I saw a man urinate on the wall across from my front door as well during the late night when the carnival was here.

Because of all of that I won't even go in my front yard with my family when the carnival is here unless I have to leave. There are other options for the carnival to go on this side of town that would not be directly in the middle of a residential area. I have seen them at Pawnee and Meridian in the Flea Market area and I think that would be a better option.

Sincerely,

Brandl Caballero

Address: 1215 W. Crawford St. Wichita, KS 67217

RECEIVED
APR 24 2014
BY: _____

Miller, Dale

From: Brandi Caballero Walker [brandidawn81@hotmail.com]
Sent: Wednesday, April 09, 2014 7:40 PM
To: Miller, Dale
Subject: Case # CUP2014-00006

Dale,

I spoke with you earlier today and wanted to also send my statements via email to be presented in tomorrow's April 10th at 1:30's MAPC meeting.

You said that the carnival is requesting an amendment so that they can have the carnival at 2541 S. Seneca 2 times a year instead of the once a year.

I oppose this amendment due to the late hours that the carnival runs and the number of people pouring into the neighborhood when the carnival is located here. Just last Sunday at 8:30 p.m. I pulled out of my driveway which is directly across the street from the backside of the shopping center and noticed about 10 teens standing in a circle looking conspicuous. I knew the carnival was in the shopping center on the front side but all of these kids were behind the shopping center. My guess was that they were supposed to be at the carnival but decided to do things they weren't supposed to and went out back. I have lived here 7 years and every time the circus is over at the shopping center we have all kinds of people lingering in the back of the buildings, liquor bottles found in my yard and spray paint on the shopping center buildings when the carnival finally leaves after 2 weeks. I drove over slowly driving by the kids and they all started walking behind a large trashcan with their heads down like they were doing something they weren't supposed to so I turned around and drove back over to all of them and rolled down the window and said, "I hope you are not planning on doing anything stupid because the cops have been around a lot." They hurried up and headed back toward the carnival. I only wish I had been telling the truth. The sad reality is that I never see cops over here when the carnival is here and that is exactly what we need if they are going to be granted another 2 weeks on top of the 2 they already have.

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Because of all of that I wont even go in my front yard with my family when the carnival is here unless I have to leave.

There are other options for the carnival to go on this side of town that would not be directly in the middle of a residential area. I have seen them at Pawnee and Meridian in the Flea Market area and I think that would be a better option.

Sincerely,

Brandi Caballero
316-207-5726

Miller, Dale

From: natalie dull [kandykayne77@yahoo.com]
Sent: Wednesday, April 09, 2014 7:38 PM
To: Miller, Dale
Subject: zoning in westway

April 9, 2014

Mr. Miller,

It has been brought to my attention the new zoning ordinance that my happen in my neighborhood, and I am not happy with it.

I live with my husband and two small children at 1301 Crawford. My home faces the backside of Westway shopping center. My neighbors and I have witnessed plenty of crime in this area, and I feel the carnival that comes through this area is almost an invitation to adolescents to commit crime they otherwise wouldn't ordinarily do.

I cannot go to sleep comfortably in my own home with the amount of foot traffic that comes through at these times. Many teenagers are out past curfew in large groups, shouting (usually obscene in nature), and make me very uncomfortable and uneasy. I have actually witnessed two vehicles stop in the front of my house at ten o'clock at night (during carnival time), one man get out, enter the other vehicle and take off. Then 15 minutes later show back up, exit that vehicle, URINATE on the wall across the street from my front door, and then proceed to leave. All the while my husband is sitting on our front porch with his holstered gun...just in case.

The carnival that comes to Westway shopping center is also an eye sore to the area. Westway is yes, a dying shopping area and not that great looking, but I value my community and wish to make it the best area for my children to grow in.

The thought of this carnival being here during Easter, Halloween, and Thanksgiving upsets me. Halloween is already a high crime holiday, lets not make it any worse.

While I don't like the idea of the carnival even once a year, if nothing can be done to stop it I believe police patrol should be in full force for the area. While I do not consider myself a "paranoid individual" it does make me very uneasy when I see the carnival being set up (I can see the ferris wheel from my front porch).

In years before I remember the carnival came to the parking lot at Pawnee and Meridian (behind Quik Trip). I believe that area would be a much better choice than Westway shopping center. There is less residential housing in that immediate area therefore less disturbance in those type of areas.

I hope you take into consideration my feelings on this subject. I want families to be able to go and have fun, just not in this area.

Sincerely,

Natalie Struble

concerned neighbor)

(a

RESOLUTION No. 14-131 150001

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A NIGHT CLUB ON APPROXIMATELY .859-ACRE ZONED CBD CENTRAL BUSINESS DISTRICT (CBD), GENERALLY LOCATED NORTH OF WEST DOUGLAS AVENUE, EAST OF NORTH HANDLEY STREET AND SOUTH OF WEST PEARL STREET, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

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

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a “wrecking and salvage yard,” on approximately 8.1 acres zoned LI Limited Industrial legally described below:

Case No. CON2014-00011 (associated with ZON2014-00003)

A Conditional Use to allow a “wrecking and salvage yard,” on approximately 8.1 acres zoned LI Limited Industrial District described as:

A tract of land Beginning 545 feet West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 85 feet; thence North 250 feet; thence West 195 feet; thence South 430 feet; thence East 280 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 545 feet West and 606 feet North of the Southeast corner of the Southeast Quarter; thence North 250 feet; thence West 85 feet; thence South 250 feet; thence East 85 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 425 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 545 feet; thence South 180 feet; thence East 545 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 825 FT West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 430 feet; thence West 320 feet; thence South 430.83 feet; thence East 320 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Platting within one year.
2. The Conditional Use permits a vehicle wrecking/salvage yard.
3. The site shall be developed, operated and maintained in compliance with UZC, Art III, Sec. III-D.6.e; the conditions of approval contained in the Conditional Use and all other applicable codes, regulations or licenses, including, but not limited to the Unified Zoning Code, fire, health and environmental regulations.

4. Within six months of final approval, code required screening shall be installed (Sec. IV-B.3.h) and shall be maintained. At the time of approval, screening along the west property line and the easternmost 515 feet of the site's northern property line was either missing or not in compliance.
5. If not present at the time of final approval, the applicant shall provide at least 11 paved parking spaces within six months of final approval.
6. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
7. If necessary, a revised site plan addressing the conditions of approval shall be submitted for Planning Director's consideration within 60 days of final approval.
8. Storage of all of vehicles shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding. Inoperable vehicles or any other materials associated with the wrecking and salvage activities shall not be stacked, stored or piled higher than the screening required to hide the vehicles or material from ground level view.
9. The applicant shall maintain at all times an active program for the eradication and control of rodents.
10. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
11. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
12. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
13. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
14. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date
My 13, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney

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. ZON2014-00003 (associated with CON2014-00011)

Zone change request from LC Limited Commercial and SF-5 Single-family Residential to LI Limited Industrial, on property containing approximately 8.1 acres generally located 500 feet north of West 29th Street North, east of North Hoover Road, 3059 North Hoover Road, and described as:

A tract of land Beginning 545 feet West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 85 feet; thence North 250 feet; thence West 195 feet; thence South 430 feet; thence East 280 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 545 feet West and 606 feet North of the Southeast corner of the Southeast Quarter; thence North 250 feet; thence West 85 feet; thence South 250 feet; thence East 85 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 425 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 545 feet; thence South 180 feet; thence East 545 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 825 FT West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 430 feet; thence West 320 feet; thence South 430.83 feet; thence East 320 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

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

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

ADOPTED this 20th day of May 2014.

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorf, City Attorney

RESOLUTION No. 14-131

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A NIGHT CLUB ON APPROXIMATELY .859-ACRE ZONED CBD CENTRAL BUSINESS DISTRICT (CBD), GENERALLY LOCATED NORTH OF WEST DOUGLAS AVENUE, EAST OF NORTH HANDLEY STREET AND SOUTH OF WEST PEARL STREET, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975 AS AMENDED.

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

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, for a Conditional Use to allow a “wrecking and salvage yard,” on approximately 8.1 acres zoned LI Limited Industrial legally described below:

Case No. CON2014-00011 (associated with ZON2014-00003)

A Conditional Use to allow a “wrecking and salvage yard,” on approximately 8.1 acres zoned LI Limited Industrial District described as:

A tract of land Beginning 545 feet West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 85 feet; thence North 250 feet; thence West 195 feet; thence South 430 feet; thence East 280 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

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AND

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AND

A tract of land Beginning 825 FT West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 430 feet; thence West 320 feet; thence South 430.83 feet; thence East 320 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Platting within one year.
2. The Conditional Use permits a vehicle wrecking/salvage yard.
3. The site shall be developed, operated and maintained in compliance with UZC, Art III, Sec. III-D.6.e; the conditions of approval contained in the Conditional Use and all other applicable codes, regulations or licenses, including, but not limited to the Unified Zoning Code, fire, health and environmental regulations.

4. Within six months of final approval, code required screening shall be installed (Sec. IV-B.3.h) and shall be maintained. At the time of approval, screening along the west property line and the easternmost 515 feet of the site's northern property line was either missing or not in compliance.
5. If not present at the time of final approval, the applicant shall provide at least 11 paved parking spaces within six months of final approval.
6. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
7. If necessary, a revised site plan addressing the conditions of approval shall be submitted for Planning Director's consideration within 60 days of final approval.
8. Storage of all of vehicles shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding. Inoperable vehicles or any other materials associated with the wrecking and salvage activities shall not be stacked, stored or piled higher than the screening required to hide the vehicles or material from ground level view.
9. The applicant shall maintain at all times an active program for the eradication and control of rodents.
10. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
11. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
12. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
13. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
14. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date
May 13, 2014.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney

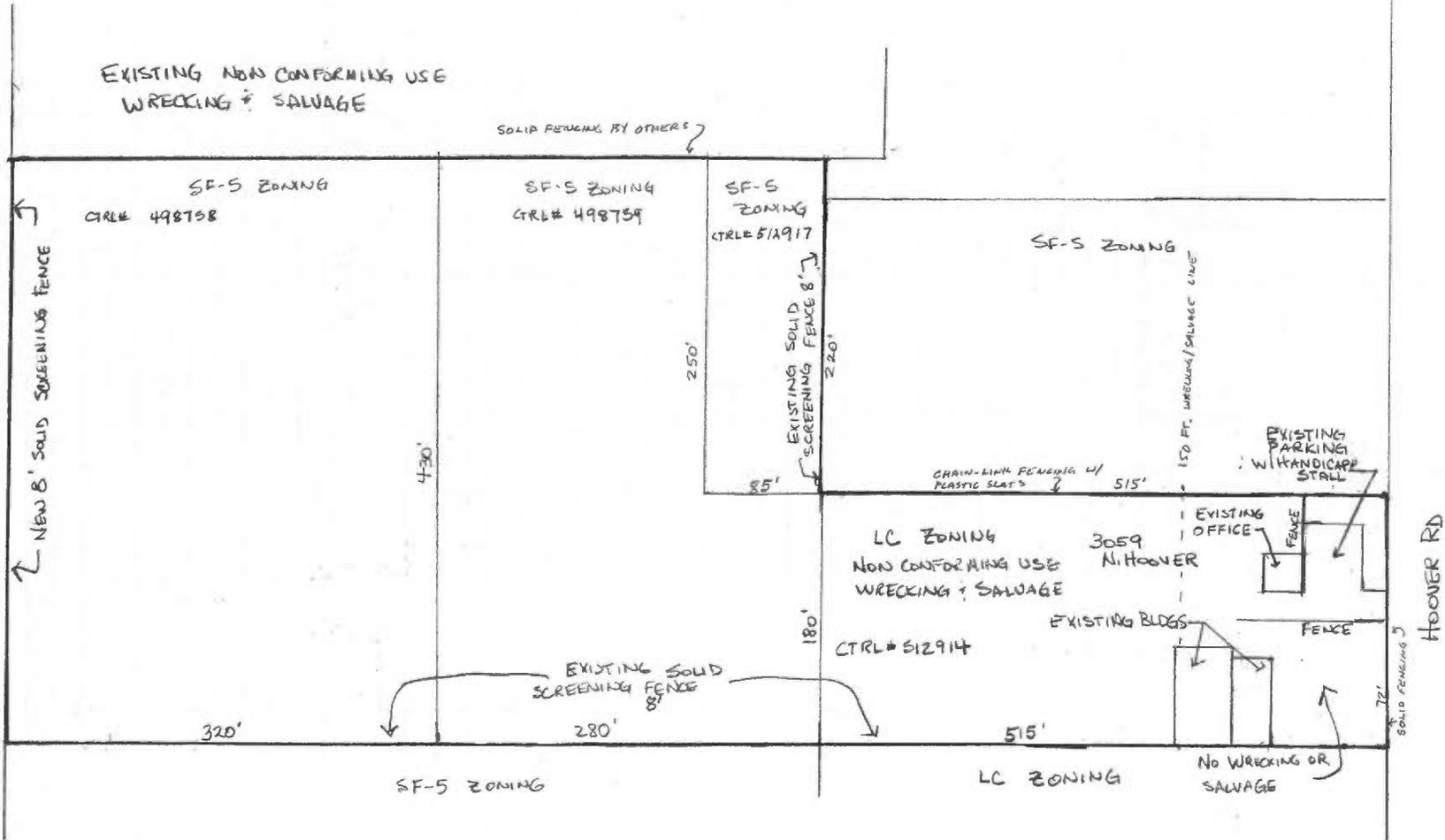
SITE PLAN

SANDLIAN IRON and METAL
3059 N. HOOPER RD WICHITA 67205



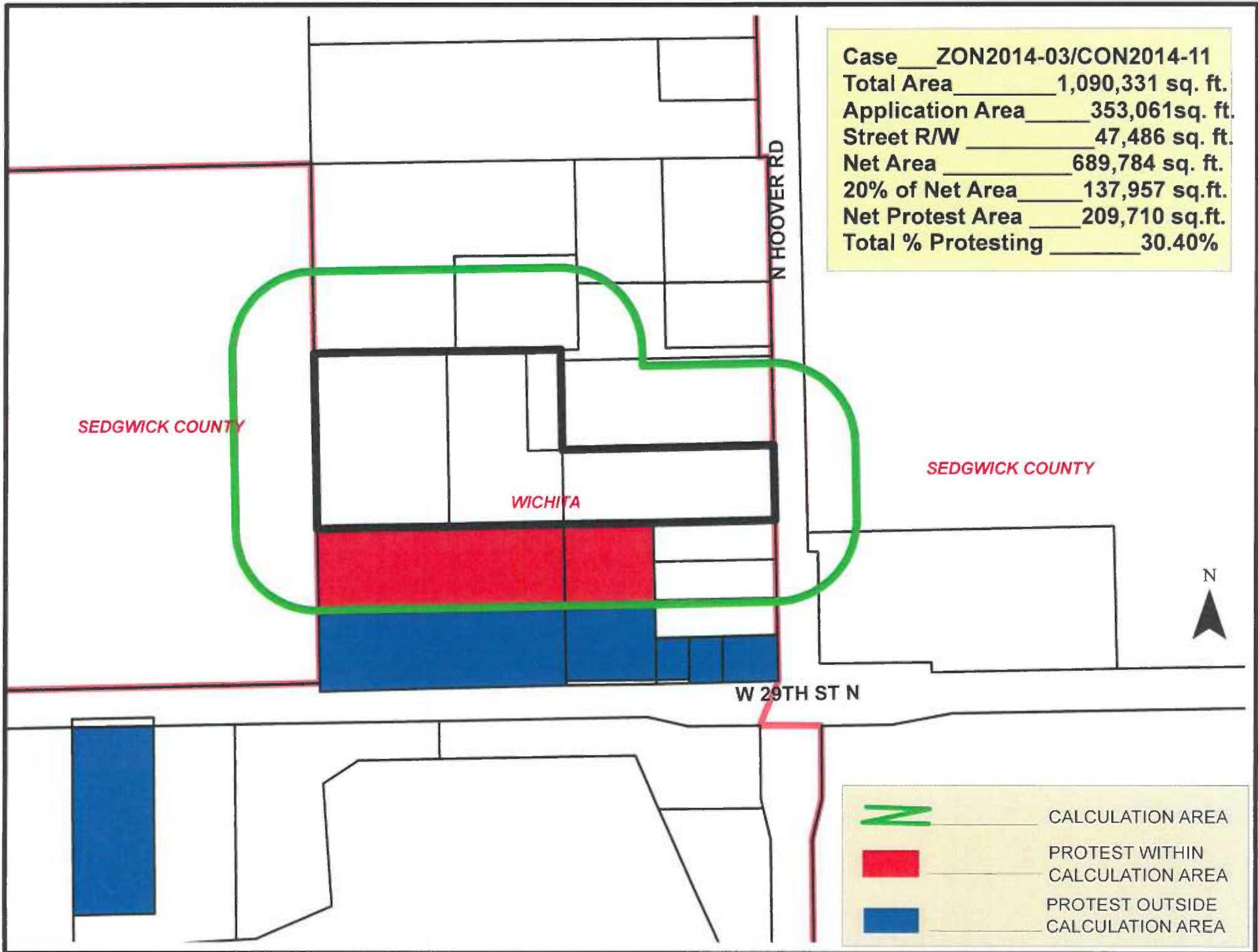
0 20 40 80
1" = 80'

COUNTY SF-20 ZONING
EXISTING LAKE



22N 2014-03 + CON 2014-11
MAP 4-10-14
REV 3-17-14

Case	ZON2014-03/CON2014-11
Total Area	1,090,331 sq. ft.
Application Area	353,061sq. ft.
Street R/W	47,486 sq. ft.
Net Area	689,784 sq. ft.
20% of Net Area	137,957 sq.ft.
Net Protest Area	209,710 sq.ft.
Total % Protesting	30.40%



**EXCERPT MINUTES OF THE APRIL 10, 2014 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2014-0003 and CON2014-00011 - William G. and Laurie J. Stone and Sandlian Iron & Metal / Ferris Consulting (Greg Ferris) (agent) request a City zone change request from LC Limited Commercial and SF-5 Single-family Residential to LI Limited Industrial and Conditional Use request to permit wrecking/salvage on property described as:

A tract of land Beginning 545 feet West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 85 feet; thence North 250 feet; thence West 195 feet; thence South 430 feet; thence East 280 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 545 feet West and 606 feet North of the Southeast corner of the Southeast Quarter; thence North 250 feet; thence West 85 feet; thence South 250 feet; thence East 85 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 425 feet North of the Southeast corner of the Southeast Quarter; thence North 180 feet; thence West 545 feet; thence South 180 feet; thence East 545 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

AND

A tract of land Beginning 825 FT West and 426 feet North of the Southeast corner of the Southeast Quarter; thence North 430 feet; thence West 320 feet; thence South 430.83 feet; thence East 320 feet to the point of beginning, Section 34, Township 26, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning and a Conditional Use to permit “wrecking and salvage” on 8.1 unplatted acres located approximately 500 feet north of West 29th Street North, east of North Ridge Road. A portion of the application area (2.25 acres) is currently zoned LC Limited Commercial (LC); the remainder of the site (5.85 acres) is zoned SF-5 Single-family Residential (SF-5). A portion of the application area currently is currently developed with a non-conforming wrecking and salvage yard. February 9, 1968, and March 30, 1974, aerial photographs show that a wrecking and salvage operation was in operation at those times. The salvage yard existed prior to the adoption of county-wide zoning. Once county-wide zoning was adopted, the wrecking and salvage operation became non-conforming but was allowed by code to continue to operate as a nonconforming use within the area that it occupied at the time county-wide zoning was adopted. Per the Unified Zoning Code, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The business is prohibited by code from expanding to a larger area unless it is properly zoned.

As shown on the applicant’s site plan, the business has existing buildings located within approximately 60 feet of Hoover Road, a designated two-lane arterial street. (The Supplementary Use Regulations prohibit wrecking and salvage operations abutting an arterial street. The Zoning Administrator has issued an opinion that wrecking and salvage operations

located beyond 150 feet of an arterial street are not “abutting.”) Wrecked vehicles are located just west of the existing office building shown on the site plan. The site is partially enclosed by a solid metal fence. Solid fencing is located along: the southern property line; the western 600 feet of the northern property line (not on the site); the northern 220-foot long portion of the east property line and along the southern 72-foot portion of the east property line. A chain-link fence with plastic slats is located along the easternmost 515 feet of the site’s northern property line. (Chain-link fencing with plastic slats is a non-conforming fence type not permitted for screening. The slats do not provide effective solid screening.) The applicant’s site plan depicts a new eight-foot solid fence will be installed along the western boundary. Parking is located in front of the existing office.

Properties surrounding the application area are zoned SF-5, SF-20 Single-family Residential (SF-20) and LC. The SF-20 zoned land located to the east of Hoover Road is in Sedgwick County, and has been approved for PUD-35, which once perfected, would allow a wide range of uses: airstrip, residential, office and commercial. Mining is permitted on the land to the east of Hoover with the submission of a preliminary plat. A preliminary plat has been submitted. Land to the north of the application area appears to be developed with a non-conforming wrecking and salvage yard. There is a single-family residence, with frontage along Hoover that is located immediately north of the application areas existing office, and east of the northern half of the eastern end of the application area. The property located to the west is located in Sedgwick County, and is a completed sandpit that is now a private lake. Property located south of the application is developed with some single-family residences. One of the lots does not have a site built residence, but has a single recreational vehicle.

As noted above, outdoor nonconforming uses such as vehicle wrecking and salvage yards do not have any expansion rights. The existing business could continue to operate on the portion of its ownership that it has been using for wrecking and salvage, but it is prohibited from expanding to a larger area due to its nonconforming land use status. The UZC permits a “wrecking and salvage yard” in the LI and GI General Industrial (GI) districts, subject to Supplementary Use Regulations Section III-D.6.e and dd. “Wrecking and salvage yard” in the LI and GI districts may be approved as a “conditional use” provided that such operation: 1) is not abutting an arterial street, expressway or freeway; 2) in the opinion of the Planning Commission, will not adversely affect the character of the neighborhood; and 3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence. The outdoor storage and/or bailing of junk, scrap, paper, bottles, rags or similar materials are prohibited.

Wrecking and salvage requires one parking space per 333 square feet of office or retail sales area, plus one space per 2,000 square feet of building floor area used for warehousing of salvaged parts; plus one per 43,500 square feet of outdoor storage area. The site should provide approximately 11 paved (concrete, asphaltic concrete, asphalt or other comparable surface) parking spaces (two for the approximately 800-plus square-foot office, one space for the warehouse and eight for the outside storage area).

The applicant will have to remove existing wrecked vehicles located within 150 feet of Hoover or request a waiver from the City Council. The chain-link fence will need to be replaced with code compliant screening.

CASE HISTORY: The property's LC zoning was established in 1958 as part of an area-wide extraterritorial zoning action. The SF-5 zoning was established in 2000 when the property was annexed by the City of Wichita.

ADJACENT ZONING AND LAND USE:

North: SF-5; single-family residences, non-conforming salvage and wrecking yard

South: LC and SF-5; single-family residences, an RV

East: LC and SF-20; private airport, approved for PUD-35 that permits a variety of uses, mining, airstrip, office, residential and commercial subject to platting

West: SF-20; private lake

PUBLIC SERVICES: The segment of North Hoover Road that fronts the application area has approximately 30 feet of half-street frontage. It does not appear that the site is served by public sewer or water services.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts the site as being 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 large urban municipality.

RECOMMENDATION: Based upon the information available at the time this report was prepared, it is recommended that the request be approved subject to platting within one year and the following conditions

1. The Conditional Use permits a vehicle wrecking/salvage yard.
2. The site shall be developed, operated and maintained in compliance with UZC, Art III, Sec. III-D.6.e; the conditions of approval contained in the Conditional Use and all other applicable codes, regulations or licenses, including, but not limited to the Unified Zoning Code, fire, health and environmental regulations.
3. Within six months of final approval, code required screening shall be installed (Sec. IV-B.3.h) and shall be maintained. At the time of approval, screening along the west property line and the easternmost 515 feet of the site's northern property line was either missing or not in compliance.
4. If not present at the time of final approval, the applicant shall provide at least 11 paved parking spaces within six months of final approval.
5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
6. If necessary, a revised site plan addressing the conditions of approval shall be submitted for Planning Director's consideration within 60 days of final approval.
7. Storage of all of vehicles shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding. Inoperable vehicles or any other materials associated with the

wrecking and salvage activities shall not be stacked, stored or piled higher than the screening required to hide the vehicles or material from ground level view.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.
9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
13. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties surrounding the application area are zoned SF-5, SF-20 Single-family Residential (SF-20) and LC. The SF-20 zoned land located to the east of Hoover Road, is in Sedgwick County, and has been approved for PUD-35, which once perfected, would allow a wide range of uses: airstrip, residential, office and commercial. Mining is permitted on the land to the east of Hoover with the submission of a preliminary plat. A preliminary plat has been submitted. Land to the north of the application area appears to be developed with a non-conforming wrecking and salvage yard. There is a single-family residence, with frontage along Hoover that is located immediately north of the application areas existing office, and east of the northern half of the eastern end of the application area. The property located to the west is located in Sedgwick County, and is a completed sandpit that is now a private lake. Property located south of the application is developed with some single-family residences and an RV.

2. The suitability of the subject property for the uses to which it has been restricted: The property is developed and operating as a nonconforming vehicle wrecking and salvage yard. The site could continue to operate within its present area; however, the applicant has a much larger ownership and could process a larger volume of vehicles if he request were to be approved.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject site has been used as a wrecking and salvage yard since 1968, and could continue to operate within the bounds of the code's nonconforming perimeters. Approval of the request will add reasonable site specific development standards to the site and use, which should reduce impacts on adjoining property owners.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Wrecking and salvage operations perform a needed service in responsibly disposing of inoperable vehicles. Denial would confine the applicant to operations consistent with its nonconforming situation and prevent the use from growing, which would presumably represent a loss of economic opportunity.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts the site as being 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 large urban municipality. The request does not conform to the designation found on the land use guide.
6. Impact of the proposed development on community facilities: Approval of the request should not impact community facilities to any greater extent than the existing nonconforming use.

DALE MILLER, Planning Staff presented the Staff Report.

GREG FERRIS, AGENT FOR THE APPLICANT, 144 S. BAY COUNTRY COURT, WICHITA, KANSAS referenced the additional salvage operation to the north of the proposed site which he indicated was annexed into the City as a non-conforming use similar to the application area. He said this is not a new use introduced into the area that is not already there. He said the applicant will provide 8-foot solid screen fencing and that the area will be well screened and maintained. He said the applicant also has no problem moving operations so they are at least 150-feet from the arterial. He said this wrecking and salvage operation already exists and they would like to expand the operation to the west and north. He mentioned that the north driveway serves the property to the north and that the drive may be located on part of the applicant's property. He said they will not be introducing anything that is anything different, but the requested conditional use will be bring the property into conformance with regulations regarding drainage, rodent control and all the other conditions listed in the Staff Report. He said if the application is not approved, the property will continue to operate as a non-conforming use. He referred to the site plan, additional parking and indicated that the applicant had no problem with any of the recommendations listed in the Staff Report.

DENNIS asked legal for clarification of "legal non-conforming use." He asked does that mean they don't have to conform with any of the established regulations.

JEFF VANZANDT, ASSISTANT CITY ATTORNEY said if the operation existed prior to annexation of the property, the operator can continue that use as originally established subject to current City laws, rules and ordinances.

DAVID CORNWELL, 5618 W. 29TH STREET NORTH, WICHITA, KANSAS provided a handout which consisted of pictures taken of the wrecking/salvage operation and County records of various zoning and code enforcements issues. He said the applicant has put up a pretty fence; however, the fence is located on 27 feet of his property. He said he will get his property resurveyed and get his land back. He said this proposed salvage operation/expansion is going to be located right next to a lake which is also in front of his property. He said there are million dollar homes in the area within 500 feet of the site as well as three lakes. He said he doesn't understand why the Commission is even considering this application.

DENNIS asked legal for clarification on rezoning 27 feet of property that is not owned by the applicant.

FOSTER commented that issue may be resolved by the platting requirement.

MILLER said staff was working with the legal description on the ownership list certified by the title company. He said before the item goes to the City Council, legal staff will confirm the legal description.

J. JOHNSON asked where the million dollar homes were located.

MILLER said the Barefoot Bay Addition was across the street just south of the drive.

JOLYNN OAKMAN, 5620 W. 29TH STREET NORTH, WICHITA, KANSAS said she lives directly across the street from the site on west 29th Street. She said she finds it interesting that there are no pictures of the Ridgeport Addition directly to the west of the lake adjacent to the proposed zoning area which is being developed with all residential uses. She said this site will have very limited use since it is less than three acres. She said she sees no advantage or benefit to increasing the size of the property and asked the Commission to vote against the rezoning and conditional use.

FERRIS commented that the Planning Commission does not get involved in private ownership matters because they are not zoning issues. He said if Mr. Cornwell is correct that the fence is located on his property, it will be moved. He said the applicant has recently acquired the property within the last 6-9 months, so they do not feel that what happened in the past at the property is relevant to this application. He reiterated that there is significant wrecking and salvage going on in the area. He said they will screen the area from Ridgeport, it will be platted and they will add an additional piece of property to the salvage operation. He said right now, the area is not even screened from the lake. He said they believe the upgrade and introduction of additional conditions will be a positive in the area. He concluded by stating that the operation that is there now is not going away.

NEUGENT asked if all salvage operations in the area were legal non-conforming.

MILLER replied as far as staff can determine.

MCKAY requested further clarification of legal non-conforming use.

RAMSEY commented that he lives in Bridgeport, which is off of 29th Street North and when he drives by he is vaguely aware that there is a salvage operation in the area but you don't see it and he has never noticed it.

MOTION: To approve subject to staff recommendation.

DENNIS moved, B. JOHNSON seconded the motion, and it carried (8-1).
NEUGENT – No.

FERRIS CONSULTING

PO BOX 573 WICHITA, KS 67201
PHONE 316-516-0808 FAX 316-722-9799

February 28, 2014

John Schlegel, Director
Metropolitan Area Planning Department
City Hall, 10th Floor
455 N. Main
Wichita, KS 67202

RE: Rezoning the Property Located at 3059 N. Hoover from LC to LI and a Conditional Use for Wrecking/Salvage and rezoning three adjacent parcels from SF-5 to LI and a Conditional Use for Wrecking/Salvage.

Dear John:

The property located at 3059 N. Hoover is currently zoned LC and used as a wrecking and salvage operation as a non-conforming use. This property has been used for this operation since it was annexed into the City in 2001. The operator of the wrecking and salvage operation would like to add the three parcels directly to the west of this property into the operation and bring the non-conforming status into conformity with the zoning regulations.

The area is a mix of commercial, industrial, and residential uses. The property to the east is zoned LC and is an airport. The property to the south is zoned LC and SF-5. While the property north of the proposed additional wrecking and salvage operation is zoned SF-5 it is also a non-conforming wrecking and salvage operation. The property to the west is zoned SF-20 but is a lake that's bank abuts the proposed new operation.

The operator will conform to the standards for a wrecking and salvage operation. This will bring the site into conformity and improve the City's ability to oversee the wrecking and salvage operation. A non-conforming wrecking and salvage operations to the north immediately abuts the area requested for a new operation.

The new area for wrecking and salvage is not adjacent to an arterial and complies with UZC Section III D. (e) (1). The existing salvage operation is seventy five feet from Hoover Road and will continue to take place behind the office area. There is an existing eight foot solid screening fence along the south property line.

The site conforms to the requirements of the Unified Zoning Code for approval as follows:

- **The zoning, uses and character of the neighborhood:** The area is mixed use with some industrial uses including existing wrecking and salvage operations. While there is existing residential property to the south and part

of the north the current wrecking and salvage operations has been in existence for many years.

- **The suitability of the subject property for the uses to which it has been restricted:** The site is not suitable for residential development. The property has no access to Hoover except through the existing wrecking and salvage operation. The site is surrounded by wrecking and salvage operations and will not be developed as residential.
- **The extent to which removal of the restrictions will detrimentally affect nearby property:** The adjoining properties have existed next to a wrecking and salvage operation for many years. With adequate screening and landscaping of these properties the request will have no additional affect.
- **The length of time the subject property has remained vacant as zoned:** The property has been vacant at least since it was annexed into the City in 2000.
- **The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** The current non-conforming status will be removed and that will be a gain to the public welfare. The additional ground will allow the wrecking and salvage operation to be better managed; also a gain to public welfare. The hardship on the applicant if the request is denied will be severe as the property does not have access or another use.
- **Impact of the proposed development on community facilities:** Hoover is a paved arterial. The non-conforming use will still exist whether the application is denied or approved. There will be no additional impact on community facilities from the proposed development.

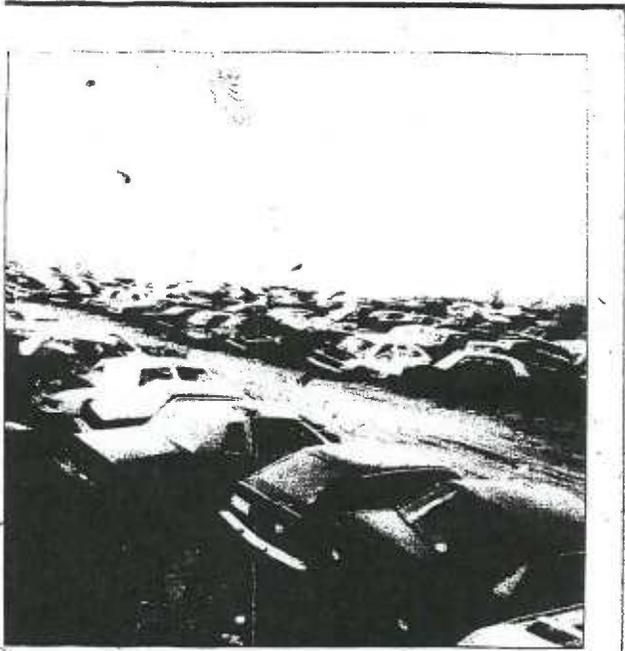
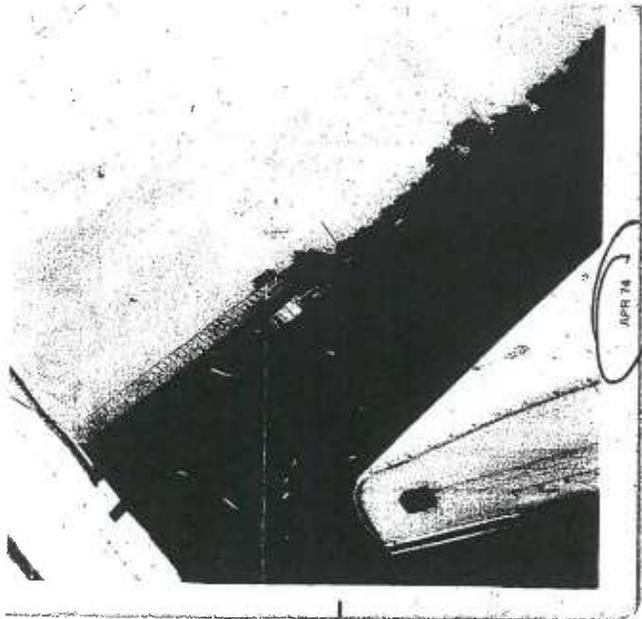
This request complies with the provisions of the Zoning Code for approval. The owners request that the Planning Staff recommend approval of this request and forward it to the Planning Commission for their approval. Please let me know if you have any questions.

Sincerely,



Gregory Ferris

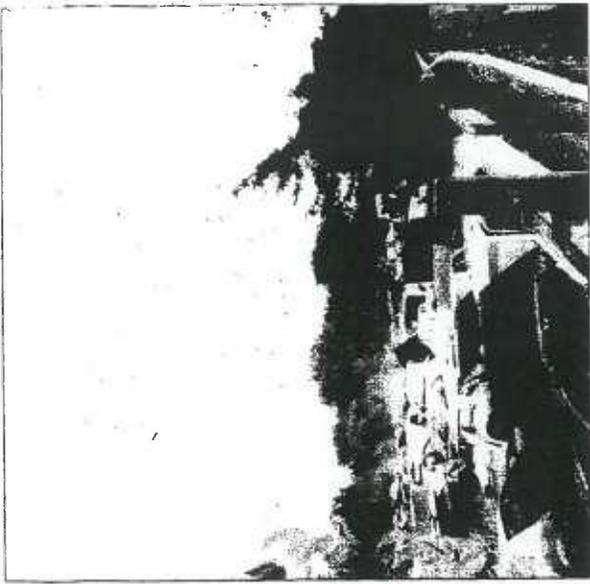
HANDOUT



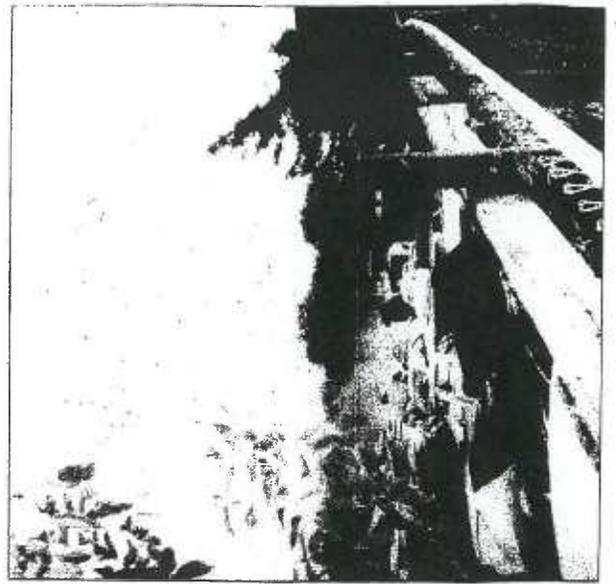
Location of the 7000 North
Side of my company
Witness By Gerry Walker 3-12-90

7-16-02

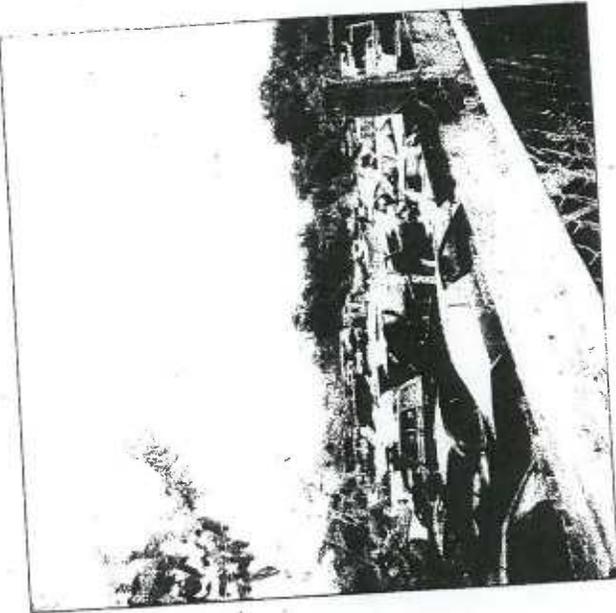




7-16-02



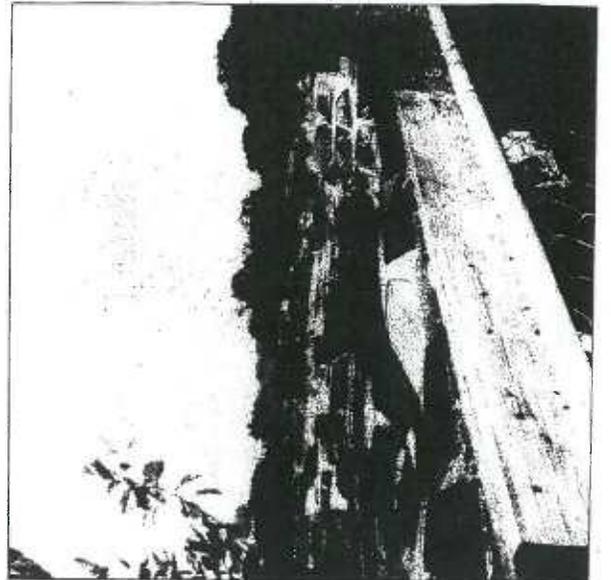
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7-16-02

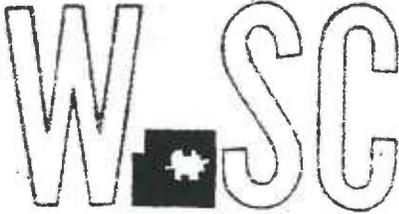


7-16-02



7-16-02

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4581

August 15, 1991

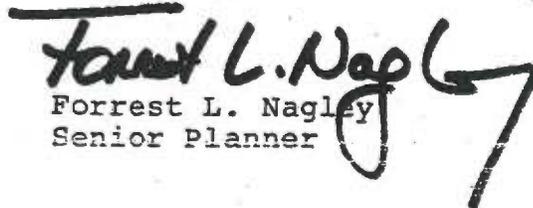
Larry & Harold Burkholder
Northwest Auto Salvage
3059 N. Hoover
Wichita, KS 67205

Re: SCZ-0631 - Zone change from "R-1" Suburban Residential to
"LC" Light Commercial, located on the west side of Hoover
Road in an area north of 29th Street North.

Dear Mr. & Mrs. Burkholder:

On August 14, 1991, the Board of County Commissioners considered
the above-captioned zone change case. The action taken by the
Commission was to deny the request. The case file has been
marked "denied and closed".

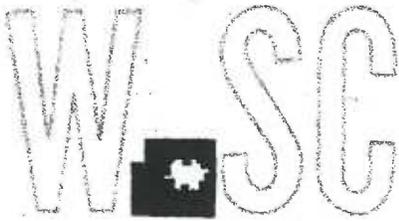
Sincerely,


Forrest L. Nagley
Senior Planner

FLN:jcm

cc: Scott Pike, County Zoning Administrator
Selden J. Carter, Jr., 2026 Matthews, Joplin, MO 64801
Russell Mills, 434 N. Market, Ste. 200, 67202
Dave, Verna & Earl Cornwell, 6008 W. 29th St. N., 67223
Jolynn Oakman, 5620 W. 29th St. N., 67205
Keith Spicer, 7601 N. Ridge Rd., 67147

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

July 19, 1991

Verna & Earl Cornwell & Doc
6008 W. 29th St. N.
Wichita, KS 67223

Re: SCZ-0631

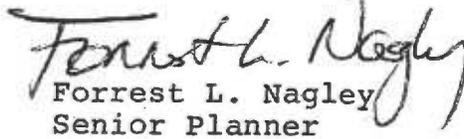
Dear Mr. & Mrs. Cornwell:

The Planning Commission at its regular meeting of July 18, 1991, considered the above-captioned request, and their action was to recommend that this request be denied.

This is to advise you that if property owners within 1,000 feet of the application area desire to submit legal protest petitions, they must be submitted to the Office of the County Clerk no later than 5:00 p.m. on Thursday, August 1, 1991. Enclosed is a protest petition form. If additional forms are needed, they may be obtained at our office.

If you have any questions concerning this matter, please call.

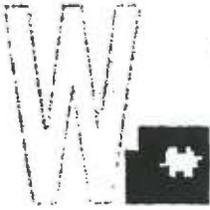
Sincerely yours,


Forrest L. Nagley
Senior Planner

FLN:jcm
Enclosure

cc: Keith Spicer, 7601 N. Ridge Road, 67147
Joslynn Oakman, 5620 W. 29th St. N., 67205
Harold Burkholder, 520 N. Main, Elbing, KS, 67041

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1668
(316) 268-4561

September 15, 1989

Larry Burkholder
Northwest Auto Salvage
3059 N. Hoover
Wichita, KS 67205

Re: SCZ-0615/DR 89-19 - Zone change to the "F" Heavy Industrial District and associated special permit to establish an automobile salvage yard, located in an area west of Hoover Road and north of 29th Street North.

Dear Mr. Burkholder:

At its regular meeting on September 14, 1989, the Metropolitan Area Planning Commission considered the above-captioned zone change request and associated special permit request. The action of the Planning Commission was to recommend that these requests be denied.

This matter will be forwarded to the Board of County Commissioners for consideration at their regular meeting on Wednesday, October 11, 1989. This meeting will be held in Room 320, Sedgwick County Courthouse, 525 N. Main, Wichita, Kansas, beginning at 9:00 a.m.

If you have any questions concerning this matter, please contact our office.

Sincerely yours,

Jack H. Galbraith
Jack H. Galbraith
Chief Planner

JHG:jcm

cc: John F. Reals, 434 N. Market, 67202
Seldon J. Carter, P. O. Box E, Independence, KS, 67301
Dean Ritchie, Ritchie Associates, 8100 E. 22nd, 67226
Harold Bauer, 1112 N. Armour, 67206
Earl, Verna & Dave Cornwell, Route 1, Box 21A, Ralston, OK,
74650
Mary Oakman, 5620 W. 29th St. N., 67205
Paul E. Wakim, Bone & Joint Clinic, 1502 Tarlton, Corpus
Christi, TX, 78415
Ron Worley, County Zoning Administrator

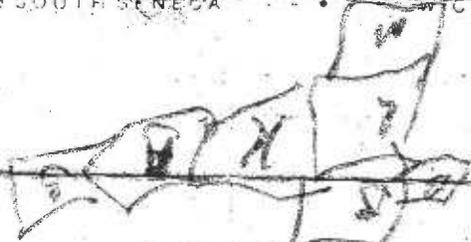


SEDGWICK COUNTY, KANSAS

DEPARTMENT OF PLANNING
AND CODE ENFORCEMENT

Ron R. Worley, C.B.O.
DEPARTMENT DIRECTOR

1248 SOUTH SENECA WICHITA KANSAS 67205 TELEPHONE (316) 268-7951



March 13, 1989

Jack Miller
c/o Northwest Auto Salvage
3059 N. Hoover
Wichita, KS 67205



Re: Salvage and/or Inoperative Vehicles at 3059 N. Hoover
Property identified by Tax Key #PK-258-1EC,
PK-258-1EC-1, and 258-1EC-1A

Dear Mr. Miller:

Please feel free to contact my office at 268-7951 if you need assistance or further information about this letter.

As required under the Zoning Resolution, notice is hereby given that you are in violation of Section No. 1.D.3. of the Zoning Resolution.

The violation is that several salvage and/or inoperative vehicles are either being temporarily stored or being used for salvage on this property in violation of the applicable "R-1" Rural Residential and "LC" Light Commercial classification for this location, as no business inventory may be stored in the open and no salvage business is permitted.

Our records note this violation as being first observed on February 17, 1989, and you should take the following action. You should immediately cease and desist from any further violation and take steps to remove all vehicles in the open as soon as possible but no later than April 30, 1989. Call this office when this has been accomplished so we can close our file.

*Permit 4402 So. 151st West
22nd
Bob Robbier
607.7.8.51*

Wichita, Kansas
May 12, 2014
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Marty Strayer, Administrative Assistant, Public Works Engineering in the Chair; Fanny Chan, Senior Accountant, Finance, representing the Director of Finance, Elizabeth Goltry-Wadle, Senior Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Eoghan Miller, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated May 5, 2014, were read and on motion approved.

Bids were opened May 9, 2014, pursuant to advertisements published on:

Redbud Multi-Use Path (east of Hydraulic, north of 9th) 87TE-0353-01/472-85007 (707035)

Bids rejected

2014 Sanitary Sewer Rehabilitation Phase B (CIPP) (north of Pawnee, east of Meridian) (468-84932/620704/664009) Traffic to be maintained during construction using flagpersons and barricades. (District I, II, III, IV)

Insituform Technologies USA Inc.- \$268,640.10

Water Distribution System to serve Clear Creek 2nd Addition (south of Kellogg, west of 143rd Street East) (448-90620/735503/470176) Does not affect existing traffic. Lateral 440, Four Mile Creek Interceptor to serve Clear Creek 2nd Addition (south of Kellogg, west of 143rd Street East) (468-84923/744364/480056) Does not affect existing traffic. (District II)

McCullough Excavation - \$25,377.00 Group 1
 \$57,973.00 Group 2
 \$83,350.00 Bid Total

Purchasing Manager recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

On motion the Board recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION:
High Pressure Sewer Cleaner.**

Defer one week

**PUBLIC WORKS AND UTILITIES DEPARTMENT/STORM WATER DIVISION: Floodway
Mowing and Haying.**

Challenger Construction Corporation* - \$1,980.00 Group 1
\$2,780.00 Group 2

*Estimate – Contract approved on unit cost basis; refer to attachments.

The Purchasing Division recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

On motion the Board recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

Marty Strayer, Administrative Assistant
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

FORMAL BID REPORT

TO: Robert Layton, City Manager

DATE: May 12, 2014

ENGINEERING BIDS – GARY JANZEN, CITY ENGINEER**May 9, 2014**

Redbud Multi-Use Path (east of Hydraulic, north of 9th) – Public Works & Utilities Dept./Engineering Division
(All Bids Rejected)

2014 Sanitary Sewer Rehabilitation Phase B (CIPP) (north of Pawnee, east of Meridian) – Public Works & Utilities Department/Engineering Division

Insituform Technologies USA, Inc.**\$268,640.10**

Water Distribution System to serve Clear Creek 2nd Addition – Public Works & Utilities Dept./Engineering Div.

McCullough Excavation**Group 1 – Water Distribution System****\$25,377.00****Group 2 – Lateral 440, Four Mile Creek Interceptor****57,973.00****Aggregate Bid Total****\$83,350.00****PURCHASING BIDS – MELINDA A. WALKER, PURCHASING MANAGER****May 9, 2014**

Combination High Pressure Sewer Cleaner and Vacuum Waste Removal System Mounted on 66,000 GWW
 Extended Cab & Chassis – Public Works & Utilities Department/Fleet & Facilities Division

(Defer to May 19, 2014)

Floodway Mowing & Haying – Public Works & Utilities Department/Storm Water Division (See Exhibit B for
 Itemized Pricing in the Formal Bid Report)

Challenger Construction Corporation**Group 1****\$1,980.00****Group 2****\$2,780.00****ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.**


Melinda A. Walker
Purchasing Manager

PAVING BID TABULATION SUMMARY

BOARD OF BIDS - May 9, 2014

RQ440349/RQ440350

FB440054		Engineer's Construction Estimate	APAC - Kansas Inc	Barkley Construction	Cornejo & Sons, LLC
Redbud Multi-Use Path					\$3,104,987.90
	BID BOND				
(east of Hydraulic, north of 9th)	ADDENDA	4			X
87TE-0353-01/472-85007 (707035)					
		Engineer's Construction Estimate	Dondlinger & Sons	Kansas Paving Company	
Redbud Multi-Use Path					
	BID BOND				
(east of Hydraulic, north of 9th)	ADDENDA	4			
87TE-0353-01/472-85007 (707035)					
		Engineer's Construction Estimate			
Redbud Multi-Use Path					
	BID BOND				
(east of Hydraulic, north of 9th)	ADDENDA	4			
87TE-0353-01/472-85007 (707035)					
		Engineer's Construction Estimate			
Redbud Multi-Use Path					
	BID BOND				
(east of Hydraulic, north of 9th)	ADDENDA	4			
87TE-0353-01/472-85007 (707035)					
REJECT BIDS					

CHECKED BY: _____
 REVIEWED BY: _____

SANITARY SEWER BID TABULATION SUMMARY

BOARD OF BIDS - May 9, 2014

RQ440482

FB440078		Engineer's Construction Estimate	Lanye Inliner LLC	Institutorm Technologies USA Inc	Mies Construction
2014 Sanitary Sewer Rehabilitation Phase B (CIPP)		\$325,497.00	\$313,333.33	\$268,640.10	
(north of Pawnee, east of Meridian)	BID BOND		X	X	
468-84932	ADDENDA	1	X	X	
(620704)					
		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Utilities Plus
2014 Sanitary Sewer Rehabilitation Phase B (CIPP)		\$325,497.00			
(north of Pawnee, east of Meridian)	BID BOND				
468-84932	ADDENDA	1			
(620704)					
		Engineer's Construction Estimate	Wildcat Construction	Stannard Construction d/b/a WB Carter	
2014 Sanitary Sewer Rehabilitation Phase B (CIPP)		\$325,497.00			
(north of Pawnee, east of Meridian)	BID BOND				
468-84932	ADDENDA	1			
(620704)					
		Engineer's Construction Estimate			
2014 Sanitary Sewer Rehabilitation Phase B (CIPP)		\$325,497.00			
(north of Pawnee, east of Meridian)	BID BOND				
468-84932	ADDENDA	1			
(620704)					

CHECKED BY: HP

REVIEWED BY: PS

WATER BID TABULATION SUMMARY

BOARD OF BIDS - May 9, 2014

RQ440507

FB440080		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction
Water Distribution System 448-90620 (735503)	Group 1	\$32,151.00	\$28,845.00	\$26,136.00	\$26,570.00
Lateral 440, Four Mile Creek Interceptor 468-84923 (744364)	Group 2	\$66,256.00	\$72,607.50	\$71,810.00	\$61,375.00
Clear Creek 2nd Addition	BID BOND				
	ADDENDA	2	X	X	X
BID TOTAL		\$98,407.00	101,452.50	97,946.00	87,945.00
		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Utilities Plus
Water Distribution System 448-90620 (735503)	Group 1	\$32,151.00	\$25,377.00	\$29,690.20	\$28,588.50
Lateral 440, Four Mile Creek Interceptor 468-84923 (744364)	Group 2	\$66,256.00	\$57,973.00	\$104,151.40	\$69,439.00
Clear Creek 2nd Addition	BID BOND				X
	ADDENDA	2	X	X	X
BID TOTAL		\$98,407.00	83,350.00	133,841.60	98,027.50
		Engineer's Construction Estimate	Stannard Construction d/b/a WB Carter		
Water Distribution System 448-90620 (735503)	Group 1	\$32,151.00	\$42,161.00		
Lateral 440, Four Mile Creek Interceptor 468-84923 (744364)	Group 2	\$66,256.00	\$90,457.70		
Clear Creek 2nd Addition	BID BOND		X		
	ADDENDA	2	X		
BID TOTAL		\$98,407.00	132,618.70		
		Engineer's Construction Estimate			
Water Distribution System 448-90620 (735503)	Group 1	\$32,151.00			
Lateral 440, Four Mile Creek Interceptor 468-84923 (744364)	Group 2	\$66,256.00			
Clear Creek 2nd Addition	BID BOND				
	ADDENDA	2			
BID TOTAL		\$98,407.00			

CHECKED BY: RP
REVIEWED BY: ps



Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line
Solicitation: FB440057 High Pressure Sewer Cleaner

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Aggregate Cost

Department: Public Works Fleet & Facilities

Responses: 3

Vendors	Complete	Bid Total	City Comments
<u>THE LARSON GROUP INC</u>	Complete	\$225,893.00	Defer to 05/19/2014 Public Works & Utilities Dept/Fleet & Facilities Div.
<u>VAC-CON SERVICES, INC</u>	Complete	\$282,092.00	
<u>KEY EQUIPMENT & SUPPLY CO</u>	Partial	\$255,964.00	

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Registration Solicitations Document Inquiry Login Help

Bid Results

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line
Solicitation: FB440079 Floodway Mowing & Hayng

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Group

Department: Public Works & Utilities

Responses: 2

Vendors	Complete	Bid Total	City Comments
<u>CHALLENGER CONSTRUCTION CORPORATION</u>	Complete	\$4,760.00	Award 05/13/2014 Groups 1 & 2 Public Works & Utilities Dept/Storm Water Division
<u>TERRY A CHARD</u>	Partial	\$1,001.00	

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Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes bids by the totals for each group listed on the solicitation.

Vendor Group Line
Solicitation: FB440079 Floodway Mowing & Haying

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Group

Department: Public Works & Utilities

Responses: 2

Go to: 1

Group 1

Vendors

	Complete	Group Total Net Bid
<u>CHALLENGER CONSTRUCTION CORPORATION</u>	Complete	\$1,980.00
<u>TERRY A CHARD</u>	In-Complete	\$0.00

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Group 2

Vendors

	Complete	Group Total Net Bid
<u>TERRY A CHARD</u>	Complete	\$1,001.00
<u>CHALLENGER CONSTRUCTION CORPORATION</u>	Complete	\$2,780.00

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[Registration](#) [Solicitations](#) [Document Inquiry](#) [Login](#) [Help](#)

Bid Results

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

Vendor Group Line
Solicitation: FB440079 Floodway Mowing & Haying

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Group

Department: Public Works & Utilities

Responses: 2

Go to: 001

Line 001 GROUP 1: Furnish labor, materials, and equipment necessary to provide farming operations per specifications. Area 1- Floodway from Central south to Arkansas River and north along the west side of the river levees to end north of 47th Street South. NOTE THE AMOUNT OF PAYMENT TO THE CITY OF WICITA ON THE BID FORM. It is estimated that 50% of all areas will be able to be used for hay production. Estimated Acres: 1970 @ 50%= 985 Bid Payment to the City of Wichita per Contract Year \$_____

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
CHALLENGER CONSTRUCTION CORPORATION	1	Each	\$1,980.0000	\$1,980.00	Complete	

TERRY A CHARD

No Bid.

Line 002 GROUP 2: Furnish labor, materials, and equipment necessary to provide farming operations per specifications. Area 2- Floodway from Central north and west along the Big Arkansas and Little Arkansas River levees and north and east along Chisholm creek levee system. NOTE THE AMOUNT OF PAYMENT TO THE CITY OF WICITA ON THE BID FORM. It is estimated that 50% of all areas will be able to be used for hay production. Estimated Acres: 2766 @ 50%= 1383 Bid Payment to the City of Wichita per Contract Year \$_____

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Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
TERRY A CHARD	1	Each	\$1,001.0000	\$1,001.00	Complete	
CHALLENGER CONSTRUCTION CORPORATION	1	Each	\$2,780.0000	\$2,780.00	Complete	

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**PRELIMINARY ESTIMATES
FOR CITY COUNCIL MAY 13, 2014**

- a. Storm Water Sewer #676 to serve Remington Place Addition (south of 21st Street North, east of Webb) (468-84933/751524/485415) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$84,000.00

PRELIMINARY ESTIMATE of the cost of:

Storm Water Sewer #676 to serve Remington Place Addition
(south of 21st Street North, east of Webb)

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

LUMP SUM BID ITEMS

1	Inlet, Curb (Type 1) 5x5	1	ea
2	Inlet, Drop, 4x4	3	ea
3	Pipe, SWS, 15"	81	lf
4	Pipe, SWS, 18"	236	lf
5	Pipe, SWS, 24"	53	lf
6	Pipe, End Section, 24"	1	ea
7	Site Clearing	1	LS
8	Site Restoration	1	LS
9	Seeding	1	LS

MEASURED QUANTITY BID ITEMS

10	BMP, Silt Fence	232	lf
11	BMP, Drop Inlet Protection	3	ea
12	BMP, Curb Inlet Protection	1	ea

Construction Subtotal

- Design Fee
- Consultant Staking & Inspection
- Engineering & Inspection
- Administration
- Publication
- Contingency

Total Estimated Cost

\$84,000.00

CITY OF WICHITA)
STATE OF KANSAS) SS

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



Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this _____
(DATE)

City Clerk

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Street Closure: MacArthur from I-235 to Broadway (Districts III and IV)
INITIATED BY: Department of Public Works & Utilities
AGENDA: Consent

Recommendation: Approve the temporary street closure.

Background: The Union Pacific Railroad (UPRR) owns and operates a mainline track that crosses MacArthur Street between I-235 and Broadway. The railroad has requested a temporary closure of MacArthur to allow the performance of needed track maintenance and repairs. The UPRR also plans to upgrade the crossing panels, which will provide a smoother driving surface at the crossing.

Analysis: A ~~12-hour~~ *temporary* closure of MacArthur from I-235 to Broadway is being requested to allow the crossing work. The street closure is expected to begin at 9:00 a.m. and extend until ~~9:00 p.m.~~ *noon on Thursday, May 15*, weather permitting. The railroad is responsible for placement of required detour signs and barricades, as well as the notification of area businesses and residents. Traffic will be detoured as follows:

Eastbound traffic on MacArthur will be detoured south on Seneca, east on 47th Street South, then north on Broadway back to MacArthur.

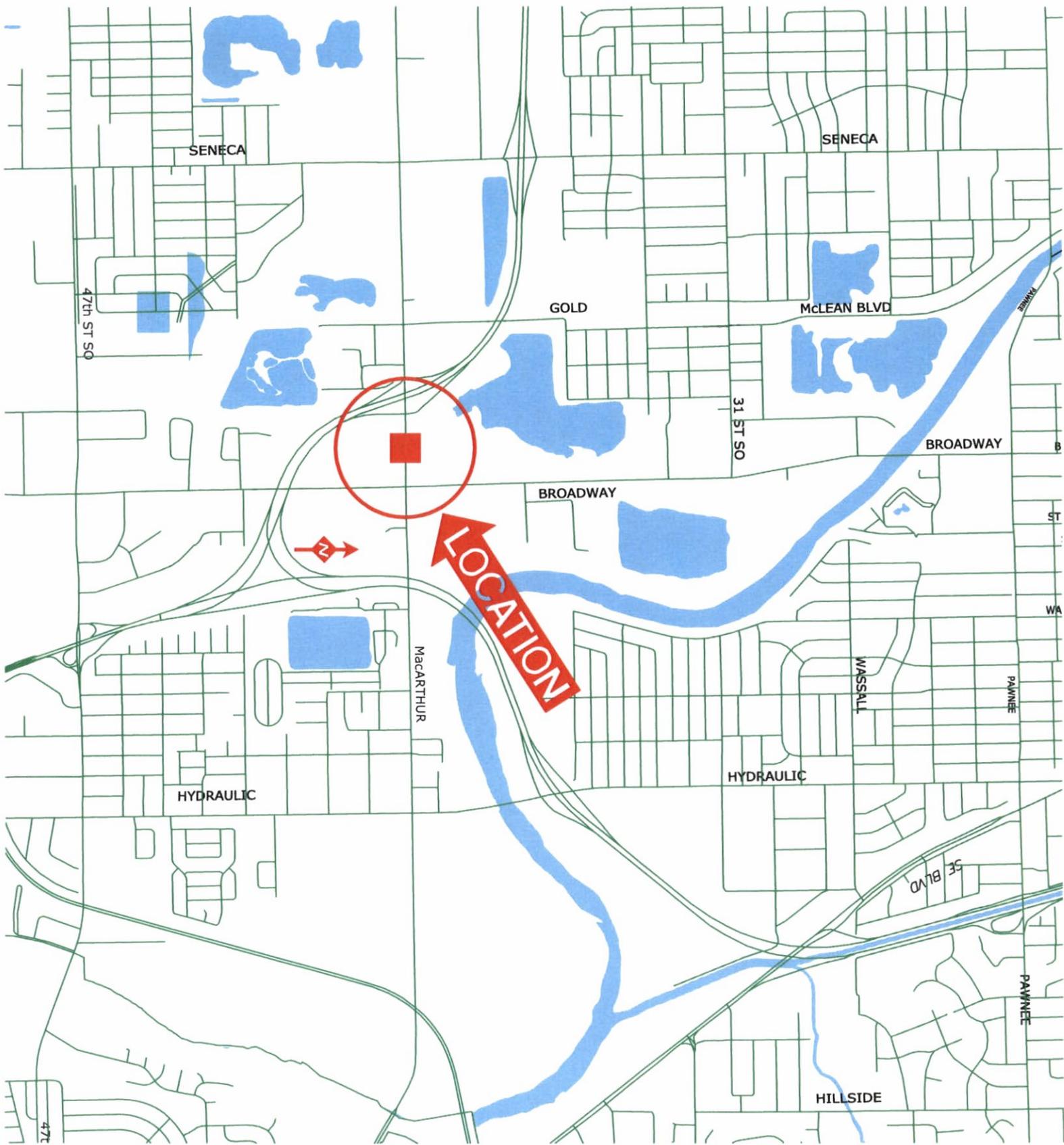
Westbound traffic on MacArthur will be detoured south on Broadway, west on 47th Street South, then north on Seneca back to MacArthur.

Financial Considerations: There is no cost to the City associated with this closure.

Legal Considerations: The City Council has legislative authority under the powers granted in the Kansas Constitution, Art. 12, § 5 to temporarily close a street not a part of a designated Federal or state highway system in order to secure the public safety and welfare. A motion is the appropriate format for such action.

Recommendation/Actions: It is recommended that the City Council approve the temporary street closure.

Attachment: Map.



City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Wichita Ribfest (District I)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closure.

Background: In accordance with the Community Events procedure the event promoter A J Boleski, Intrust Bank Arena is coordinating the Wichita Ribfest with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Wichita Ribfest May 16, 2014 6:00 am through May 19, 2014 2:00 am

- Waterman Street, Commerce Street to entrance of Wichita Transit Operations, 777 East Waterman, curbside west bound lane only.

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

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

Legal Consideration: There are no legal considerations.

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

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Delano Birthday Party (District IV)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closures.

Background: In accordance with the Community Events procedure the event promoter Karen Cravens, Delano Neighborhood Association is coordinating the Delano Birthday Party with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Delano Birthday Party May 17, 2014 5:30 pm – 8:30 pm

- Douglas Avenue, Vine Street to Burton Street
- Douglas Avenue, Glenn Street to Millwood Street

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

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

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments.

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: Community Events – Special Olympics Kansas Summer Games Opening Ceremony (District I)

INITIATED BY: Division of Arts & Cultural Services

AGENDA: Consent

Recommendation: Approve the request for temporary street closure.

Background: In accordance with the Community Events procedure the event promoter Dave Wentz, Special Olympics Kansas, is coordinating the Special Olympics Kansas Summer Games Opening Ceremony with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Special Olympics Kansas Summer Games Opening Ceremony June 6, 2014 9:00 pm – 9:30 pm

- 21st Street North, Hillside Street to Yale Street

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

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

Legal Consideration: There are no legal considerations.

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

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: Community Events – Upper Room Fundraiser (District I)
INITIATED BY: Division of Arts & Cultural Services
AGENDA: Consent

Recommendation: Approve the request for temporary street closure.

Background: In accordance with the Community Events procedure the event promoter Jennifer Glover, Upper Room Church of Jesus Christ is coordinating the Upper Room Fundraiser with City of Wichita staff, subject to final approval by the City Council.

Analysis: The following street closure request has been submitted:

Upper Room Fundraiser June 7, 2014 12:00 pm – 3:00 pm

- Missouri Street, Pennsylvania Street to North Hydraulic Avenue

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

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

Legal Consideration: There are no legal considerations.

Recommendation/Actions: It is recommended that the City Council approve the request subject to; 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments.

**City of Wichita
City Council Meeting
May 13, 2014**

TO: Mayor and City Council

SUBJECT: Change Order No. 5 for the Lincoln Street Bridge and Dam Improvements (Districts III and IV)

INITIATED BY: Department of Public Works & Utilities

AGENDA: Consent

Recommendation: Approve the change order and revised budget; adopt the amending resolution.

Background: On March 8, 2011, the City Council approved a construction contract with Dondlinger & Sons Construction Company, Inc. for improvements to the Lincoln Street Bridge and Dam. Construction began in March 2011. Four change orders for this project have been processed or approved by the City Council to date.

Project Contract and Change Order History

Item	Date	Provided	Cost
Contract	March 8, 2011	Original construction contract.	\$13,737,245
CO No. 1	September 21, 2011	Installation of conduit for communication line to the control building.	\$4,180
CO No. 2	April 18, 2012	Installation of dry stack wall for slope protection and to prevent erosion and exposition of underground cables serving the control building.	\$3,630
CO No. 3	August 7, 2012	Installation of grout and beam supports to provide increased long term stability of the boat and fish pass during heavy rain events. Beginning this portion of the pass repairs immediately was required to prevent delay of bridge construction.	\$66,990
CO No. 4	October 16, 2012	Installation of sheet pile, concrete, and clay backfill to provide increased long term stability of the boat and fish pass during heavy rain events. This was a continuation of the work started under Changer Order No. 3.	\$458,713
Total cost of construction to date:			\$14,270,758

Over 18 inches of rain fell during July and August 2013, creating abnormally high flows in the river, which washed out supporting material from under the retaining wall near the east bank, resulting in a partial failure of the wall. In addition, large amounts of sediment were deposited in the downstream end of the boat and fish pass, blocking the flow of water and prevented the public's use of the pass.

Analysis: Change Order No. 5 has been prepared to repair the wall damage and remove the sediment from the boat pass. In addition, final quantities will be adjusted for Change Orders 3 and 4. The scope of the proposed work includes:

- Repair of the retaining wall, including additional reinforcement of the foundation making the wall less susceptible to damage in future high flow events;
- Removal of sediment build-up in the pass;
- Removal and replacement of sidewalk;
- Construction of additional sidewalk;
- Installation of additional materials to provide elevation adjustments where needed;
- Replacement of a light on the dam which was stolen; and
- Necessary computer programming of the dam control panel.

The change order will also provide adjustment of bid quantities based on final field measurements. Dondlinger & Sons Construction and the City agree that the proposed change order will resolve any potential claim for both direct and indirect damages resulting from delay, unforeseen circumstances, or any other basis relating to harm to the project caused by high water flows. Work included in this change order will be tracked on a force account basis, and final costs and quantities will be adjusted upon completion.

Financial Considerations: The total cost of the change order is \$357,250. This change order plus previous change orders represents 6.5% of the original contract amount, which is within the 25% of contract cost limit set by City Council policy. The addition of this change order brings the total cost of construction to \$14,628,008. A total of \$56,000 will be funded from the City-County Flood Control budget, leaving \$301,250 in additional project expenses. To account for the remainder of the change order, as well as additional inspection, and engineering staff and administrative costs, an increase in the project budget is requested.

The existing budget is \$16,010,000 and was approved by the City Council on November 20, 2012. The funding sources include \$10,200,000 in General Obligation (GO) bonds, \$4,800,000 in Federal Transportation Funds, and \$1,010,000 in reimbursable grants. Staff proposes adding \$350,000 in GO bond funding, for a total budget of \$16,360,000. The additional \$350,000 is available for transfer from the 29th Street North, Ridge to Hoover project. The offset of GO bond funding in the 29th Street project is available due to lower than anticipated bid prices. Staff requests waiver of City Council Policy No. 2 regarding the use of project savings to allow this transfer of funds.

Legal Considerations: The Law Department has reviewed and approved the change order and amending resolution as to form. The change order amount is within the 25% of contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the change order, waive City Council Policy No. 2 regarding the use of project savings, approve the revised budget, adopt the amending resolution, and authorize the necessary signatures.

Attachments: Change Order No. 5, budget sheet, and amending resolution.



To: Dondlinger & Sons Construction Co., Inc.

Project: Lincoln Street Bridge & Dam
Improvements over Arkansas River

Change Order No.: 5
Purchase Order No.: 130190

Project No.: 87N-0361-01 / 472-84883
OCA No.: 715724/133224
PPN: 249140

CHANGE ORDER TOTAL: \$357,250.00

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$451,500.00

Additional Work: Install scour apron, replace sidewalk, and restore wall panels.

Reason for Additional Work: After nearly 18 inches of rain during July and August 2013, high flows in the Arkansas River washed out material that supports the retaining wall on the east side of the river.

The scope of the proposed work will provide better long-term stability to the wall during higher flows. Contractor's cost will be tracked on a force account basis. The parties acknowledge that this change order will resolve any potential claim for both direct and indirect damages resulting from delay, unforeseen circumstances, or any other basis relating to harm to the Project caused by the high water flows. Final quantities and budget charges will be adjusted upon completion.

(715724)

Line #	KDOT #	Item(Non-Part)	Negotiated/		Qty	Unit Price	Extension
			Bid				
180	4	Stabilize river bank & Wall E	Negot'd		1	LS 16,000.00	16,000.00
181	4	Remove & replace 8" sidewalk	Negot'd		1	LS 72,550.00	72,550.00
182	4	Repair of Wall E	Negot'd		1	LS 228,700.00	228,700.00
183	4	Mobilization & site restoration	Negot'd		1	LS 88,250.00	88,250.00
184	4	Concrete scour apron	Negot'd		1	LS 46,000.00	46,000.00

CHARGE TO OCA No.: 133224

Please perform the following extra work at a cost not to exceed \$56,000.00

Additional Work: Remove sediment

Reason for Additional Work: After nearly 18 inches of rain during July and August 2013, high flows in the Arkansas River deposited large amounts of sediment in the downstream end of the boat/fish pass, blocking the flow of water and preventing the public's use of the pass.

The scope of the proposed work will restore use of the pass. Costs will be paid from the Flood Control Fund. Contractor's cost will be tracked on a force account basis. Final quantities and budget charges will be adjusted upon completion.

(133224)

Line #	KDOT #	Item(Non-Part)	Negotiated/		Qty	Unit Price	Extension
			Bid				
185	4	Sediment removal	Negot'd		1	LS 56,000.00	56,000.00

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$(165,890.94)

Additional Work: Adjust final payment on Change Orders #3 and #4

Reason for Additional Work: Change Orders #3 and #4 were previously approved on August 7, 2012 and October 16, 2012, respectively. This work related to the boat pass was tracked on a force account basis. Final costs have been received.

(715724)		Negotiated/					
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Non-Part)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>	
186	4	Boat pass restoration	Negot'd	(1)	LS	32,026.75 (32,026.75)	
187	4	Sheet pile & concrete apron	Negot'd	(1)	LS	6,631.92 (6,631.92)	
188	4	Concrete wall under weir #8	Negot'd	(1)	LS	9,034.47 (9,034.47)	
189	4	Concrete plugs	Negot'd	(1)	LS	15,794.96 (15,794.96)	
190	4	Raise Wall D elevation	Negot'd	(1)	LS	18,544.56 (18,544.56)	
191	4	Clay backfill	Negot'd	(1)	LS	27,460.84 (27,460.84)	
192	4	Fish baffles	Negot'd	(1)	LS	6,885.38 (6,885.38)	
193	4	Level weirs & channelizers	Negot'd	(1)	LS	8,710.70 (8,710.70)	
194	4	Epoxy coating	Negot'd	(1)	LS	28,095.60 (28,095.60)	
195	4	Grouted rip rap repair	Negot'd	(1)	LS	12,705.76 (12,705.76)	

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$990.00

Additional Work: Extend Wall H

Reason for Additional Work: Due to the elevation difference at the end of Wall H between the proposed sidewalk elevation and backfill behind the wall, dry stack retaining wall will be added to provide a maintainable slope.

(715724)		Negotiated/					
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Participating)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>	
119	4	Dry-Stack Stone Ret. Wall	Bid	30.0	sff	33.00 \$990.00	

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$1,510.37

Additional Work: Additional steel and concrete in sidewalk above Wall E

Reason for Additional Work: Sidewalk elevations above Wall E require adjustment to maintain ADA compliance. New elevations require additional steel and concrete to raise the sidewalk above Wall E.

(715724)		Negotiated/					
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Non-Part)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>	
196	29	Wall E sidewalk adjustment	Negot'd	1.0	LS	1,510.37 \$1,510.37	

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$2,732.50

Additional Work: Adjust roadway measured bid items

Reason for Additional Work: Adjust roadway measured bid items based on final field measurements. Additional sidewalk was necessary for pedestrian access to the traffic signal pole on southeast corner of Lincoln and McLean.

(715724)		Negotiated/					
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Participating)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>	
59	29	Conc. Driveway Pvmnt 10"	Bid	12	sf	15.00 180.00	
60	29	Conc. Driveway 8"	Bid	41	sf	7.50 307.50	

61	29	Conc. Sidewalk 4"	Bid	698	sf	4.25	2,966.50
62	29	Conc. Sidewalk 8"	Bid	(18)	sf	5.50	(99.00)
66	80	Portable Changeable Elect. Message Sign	Bid	(12)	day	40.00	(480.00)
67	4	Erosion Control BMP (Back of Curb Prot.)	Bid	77	lf	1.50	115.50
70	4	Erosion Control BMP (Silt Barrier)	Bid	(172)	lf	1.50	(258.00)

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$(2,665.00)

Additional Work: Adjust dam measured bid items

Reason for Additional Work: Adjust dam measured bid items based on final field measurements.

(715724)			Negotiated/				
Line #	KDOT #	Item(Non-Part)	Bid	Qty	Unit Price	Extension	
105	29	Conc. Sidewalk 8" Reinf.	Bid	230	sf	10.00	2,300.00
106	30	Asphalt Patch	Bid	(80)	sy	60.00	(4,800.00)
108	4	Erosion Control BMP (Back of Curb Prot.)	Bid	(150)	lf	1.50	(225.00)
109	4	Erosion Control BMP (Silt Barrier)	Bid	40	lf	1.50	60.00

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$(5,193.00)

Additional Work: Adjust portage measured bid items, construct additional sidewalk

Reason for Additional Work: Adjust portage measured bid items based on final field measurements. Additional sidewalk needs constructed at the south end of Palisade to provide an ADA compliant path between sidewalk on Bailey and sidewalk along Palisade.

(715724)			Negotiated/				
Line #	KDOT #	Item(Non-Part)	Bid	Qty	Unit Price	Extension	
142	29	Conc. Driveway 8"	Bid	105	sf	7.50	787.50
143	29	Concrete C&G Rem. & Repl.	Bid	5	lf	20.00	100.00
144	29	Conc. Sidewalk 4"	Bid	266	sf	3.00	798.00
145	29	Conc. Sidewalk 8"	Bid	601	sf	5.50	3,305.50
146	29	Conc. Sidewalk 8" Reinf.	Bid	(182)	sf	10.00	(1,820.00)
149	30	Temp. Pvm. Patch	Bid	(133)	sy	60.00	(7,980.00)
153	4	Erosion Control BMP (Silt Barrier)	Bid	(256)	lf	1.50	(384.00)

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$2,916.07

Additional Work: Replace broken sidewalk

Reason for Additional Work: Upon completion of the bridge, sidewalk sections on each corner cracked and shifted. Sidewalk was removed and additional expansion joints were added due to movement.

(715724)			Negotiated/				
Line #	KDOT #	Item(Non-Part)	Bid	Qty	Unit Price	Extension	
197	4	Sidewalk replacement	Negot'd	1	LS	2,916.07	2,916.07

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$3,735.00

Additional Work: Replace intersection pavement

Reason for Additional Work: Upon completion of the McLean intersection, the crown in the intersection had to be removed and replaced for a smoother ride.

(715724)			Negotiated/			
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Non-Part)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>
6	4	Conc. Pvmnt. 9" (Reinf)	Bid	83	sy 45.00	3,735.00

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$1,175.00

Additional Work: Replace LED light on dam

Reason for Additional Work: After substantial completion of the dam, one LED light was cut and removed from the dam.

(715724)			Negotiated/			
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Non-Part)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>
198	4	Light replacement	Negot'd	1	LS 1,175.00	1,175.00

CHARGE TO OCA No.: 715724

Please perform the following extra work at a cost not to exceed \$10,440.00

Additional Work: Computer programming

Reason for Additional Work: The gate control software specified in the bid documents was based on the existing software for the old dam, which operated two gates. The new dam now has four gates and requires a more precise program to regulate water flow through the new boat pass. Contractor must develop custom computer software to operate the dam accurately and efficiently.

(715724)			Negotiated/			
<u>Line #</u>	<u>KDOT #</u>	<u>Item(Non-Part)</u>	<u>Bid</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extension</u>
199	4	Control panel programming	Negot'd	1	LS 10,440.00	10,440.00

CIP Budget Amount: \$16,010,000.00 (715724)	Original Contract Amt.: \$13,737,244.60
Consultant: MKEC	Current CO Amt.: \$357,250.00
Total Exp. & Encum. To Date: \$15,399,467.89	Amt. of Previous CO's: \$533,513.00
CO Amount: \$301,250.00	Total of All CO's: \$890,763.00
Unencum. Bal. After CO: \$309,282.11	% of Orig. Contract / 25% Max.: 6.48%
CIP Budget Amount: \$22,898,025.83 (133224)	Adjusted Contract Amt.: \$14,628,007.60
Total Exp. & Encum. To Date: \$18,707,700.09	
CO Amount: \$56,000.00	
Unencum. Bal. After CO: \$4,134,325.74	

Recommended By:

Approved:

Steve Degenhardt, P.E. Date
Construction Division Manager

Gary Janzen, P.E. Date
City Engineer

Approved:

Approved

First Published in the Wichita Eagle on May 16, 2014

RESOLUTION NO. 14-132

A RESOLUTION AMENDING RESOLUTION NO. **12-247** AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO IMPROVE THE **LINCOLN STREET BRIDGE AND DAM AT THE ARKANSAS RIVER (472-84883)**.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1. Section 2 of Resolution No. **12-247** is hereby amended to read as follows:

“SECTION 1. Section 2 of Resolution No. **10-312** is hereby amended to read as follows:

SECTION 2. Section 2 of Resolution No. **10-258** is hereby amended to read as follows:

SECTION 3. SECTION 2 of Resolution No. **10-100** hereby amended to read as follows:

“SECTION 2. The cost of the above described improvements is estimated to be **Sixteen Million Three Hundred Sixty Thousand Dollars (\$16,360,000)** exclusive of interest on financing and administrative and financing costs. To the extent the cost of such improvements is not paid by Federal and State Grants, the City of Wichita, Kansas, is authorized to issue general obligation bonds to pay such costs under the authority of Wichita Charter Ordinance No. 156 up to a maximum amount of \$16,360,000, exclusive of interest on financing and administrative and financing costs.”

SECTION 2. The original SECTION 2 of Resolution No. **12-247** is hereby rescinded.

SECTION 3. That the City Clerk shall make proper notification of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 13th day of May, 2014.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

GARY REBENSTORF, DIRECTOR OF LAW

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City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: Award of Transit Safety and Security Audit and Report (All Districts)

INITIATED BY: Wichita Transit

AGENDA: Consent

Recommendation: Approve the vendor selection and authorize the Purchasing Manager to enter into a contract.

Background: Wichita Transit (WT) has the need to review its current Safety and Security practices to ensure the Federal Transit Administration (FTA) requirements are being met. The current safety and security plan was last updated in 2011. FTA has put a higher emphasis on Safety and Security in recent years. FTA grantees are required to spend at least 1% of their yearly apportionment on security unless the grantee goes through a threat and vulnerability assessment and has no deficiencies. Wichita Transit finds the Safety and Security Audit to be necessary to identify any current deficiencies.

Analysis: A full review of the current safety and security program will be completed, and any findings will be addressed through revised policies and procedures, training programs, updated performance measures, and facility modification suggestions. In addition to addressing any findings in the program, the current safety and security plan will be updated to meet FTA requirements.

A Request for Proposal was distributed to an appropriate list of vendors and two responses were received for the project. The selection committee held phone interviews and evaluated each proposal on April 25, 2014. Based on the evaluation criteria, the committee members ranked the proposal submitted by RLS & Associates, Inc. as the best proposal to conduct the transit safety and security audit and report. The proposers were rated on their experience in conducting safety and security audits, the qualifications of their key staff and the proposed timeline. RLS & Associates was found to have the most experience as a firm and among their key staff in conducting transit safety and security audits.

Financial Considerations: The cost of the selected proposal is \$40,126.17. FTA security planning funds will be used to cover 80% (\$32,100) of the cost and the local match will be 20% (\$8,026) of the cost.

Legal Considerations: The procurement process used complies with Federal requirements, and the attached contract has been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the selection of RLS & Associates, Inc. and authorize the Purchasing Manager to enter into a contract in the amount of \$40,126.17 for a transit safety and security audit and report.

Attachments: Contract with RLS & Associates

CONTRACT
For
SAFETY AND SECURITY REVIEW

THIS CONTRACT entered into this 13th day of May, 2014, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **RLS & ASSOCIATES, INC.** (Vendor Code Number 828992-001), 3131 S. Dixie Hwy, Suite 545, Dayton, OH, 45439, Telephone Number (937) 299-5007 hereinafter called "**CONSULTANT**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for **Safety and Security Review** (Formal Proposal – FP440016), and

WHEREAS, CONSULTANT has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. **CONSULTANT** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP440016, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans, addenda and attached Federal Transit Administration Clauses – Exhibit B, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP440016, shall be considered a part of this contract and is incorporated by reference herein.

2. Compensation. **CITY** agrees to pay to **CONSULTANT** a **not to exceed amount of \$40,126.17** for **Safety and Security Review** for Wichita Transit of the City of Wichita as per the proposal, plans, specifications, addenda and **CONSULTANT'S** proposal of April 11, 2014 and as approved by the City Council on May 6, 2014.

Billing Terms: Net Thirty (30) Days

3. Term. **CONSULTANT** further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita starting **May 13, 2014 to be completed by August 31, 2014**. This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **CONSULTANT**.

4. Indemnification and Insurance.

a. **CONSULTANT** 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 **CONSULTANT**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONSULTANT** 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, xcu hazards when applicable, Product/Completed Operations, Broad Form Property Damage and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 Each Occurrence \$500,000 Each Aggregate
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Property Damage Liability	\$500,000 Each Occurrence \$500,000 Each Aggregate
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Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 Each Occurrence \$500,000 Each Aggregate
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2. Comprehensive Automobile Liability

All Owned, Non-Owned, and Hired vehicles with minimum limits as follows:

Bodily Injury Liability	\$500,000 Each Accident
Property Damage Liability	\$500,000 Each Accident

Or

Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 Each Accident
---	-------------------------

3. Workers' Compensation

Statutory

Employers Liability	\$100,000 Each Accident \$500,000 Aggregate \$100,000 Occupational Disease
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5. Independent Contractor. The relationship of the **CONSULTANT** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONSULTANT** shall be considered an employee of the **CITY**.

6. Compliance with Laws. **CONSULTANT** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

7. No Assignment. The services to be provided by the **CONSULTANT** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

8. Non-Discrimination. **CONSULTANT** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit A.

9. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create 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.

10. No Arbitration. The Consultant and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

11. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas. The parties agree that this contract has been created in Kansas.

12. Representative's Authority to Contract. By signing this contract, the representative of the consultant represents the he or she is duly authorized by the consultant to execute this contract, and that the consultant has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

CITY OF WICHITA, KANSAS

Janis Edwards
Deputy City Clerk

Carl Brewer, Mayor

APPROVED AS TO FORM:

RLS & ASSOCIATES, INC.

Gary E. Rebenstorf
Director of Law

Signature

Print Signature Name

Title (*President or Corporate Officer*)

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, 11141; 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.

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Federally Required Contract Clauses—Professional Services/A&E/Consulting

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7. Termination
8. Government-wide Debarment and Suspension (Nonprocurement)
9. Privacy Act
10. Civil Rights Requirements
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12. Incorporation of Federal Transit Administration (FTA) Terms

1. FLY AMERICA REQUIREMENTS

**49 U.S.C. § 40118
41 CFR Part 301-10**

Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. ENERGY CONSERVATION REQUIREMENTS

**42 U.S.C. 6321 et seq.
49 CFR Part 18**

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

3. ACCESS TO RECORDS AND REPORTS

**49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17**

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or

any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
<u>I State Grantees</u>						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless ¹ non-competitive award		Yes, if non-competitive award or if funded thru ² 5307/5309/53 11	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
<u>II Non State Grantees</u>						
a. Contracts below SAT (\$100,000)	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects	Yes ³		Yes	Yes	Yes	Yes

Sources of Authority:

¹ 49 USC 5325 (a)

² 49 CFR 633.17

³ 18 CFR 18.36 (i)

4. FEDERAL CHANGES

49 CFR Part 18

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

5. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

AND RELATED ACTS

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the

right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

7. TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1E

a. Termination for Convenience (General Provision) The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such

termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

8. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by The City of Wichita. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to The City of Wichita, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9. PRIVACY ACT

5 U.S.C. 552

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

10. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of

U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

11. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Disadvantaged Business Enterprises

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is .68 %.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Wichita deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Wichita. In addition, **the contractor may not hold retainage from its subcontractors.**
- d. The contractor must promptly notify the City of Wichita, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Wichita.

12. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1E

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
APRIL 2014**

COMMODITY TITLE	EXPIRATION	VENDOR NAME	DEPARTMENT	ORIGINAL	RENEWAL OPTIONS
	DATE			CONTRACT DATES	REMAINING
Animal Health Services	4/30/2014	Veterinary Services Group LLC, DBA Veterinary Emergency and Specialty Hospital of Wichita	Police	6/1/2011 - 5/31/2012	Annual basis
Bicycle Services: Parts & Repairs	4/30/2015	MJS Enterprises Inc. DBA Bicycle X Change Shops	Police	5/1/1998 - 4/30/1999	Annual basis
Brooms - Elgin Main & Gutter for Street Sweepers	4/30/2015	West Coast Equipment, Inc.	Public Works & Utilities	5/8/2012 - 4/30/2013	Last option
Bus and Van Cleaners & Compounds - Group 1	4/30/2015	Alkota of Kansas	Transit	5/1/2013 - 4/30/2014	1 - 1 year option
Bus and Van Cleaners & Compounds - Group 2	4/30/2015	Professional Cleaning Systems Inc.	Transit	5/1/2013 - 4/30/2014	1 - 1 year option
Deionized Water	4/30/2015	Halls Culligan Water Conditioning, Inc.	Public Works & Utilities	5/1/2012 - 4/30/2013	Last option
Electronic Equipment Removal & Proper Disposal	4/30/2015	International Electronics Recyclers, LLC	IT / IS	5/11/2012 - 4/30/2013	Last option
Elevator Maintenance	4/30/2015	Kone, Inc.	Various	5/1/2010 - 4/30/2011	Last option
Filter Fly Control Chemicals	4/30/2015	Precision Control Technology, Inc. dba Adapco Environmental Solutions	Public Works & Utilities	05/13/2003 - 04/30/2004	Annual basis
Firefighter Protective Clothing - Coats and Pant Sets, Harness/Belt, Hoods, Helmets (Groups 2, 3, 4 & 5)	4/30/2014	Municipal Emergency Services, Inc. dba MES-MIDAM	Fire	4/23/2013 - 4/30/2014	2 - 1 year options
Firefighter Protective Clothing - Group 1	4/30/2015	Morning Pride Mfg. dba Honeywell First Responder Products	Fire	4/23/2013 - 4/30/2014	1 - 1 year option
Firefighter Protective Clothing - Group 6	4/30/2014	All Hands Fire Equipment	Fire	4/23/2013 - 4/30/2014	2 - 1 year options
Glass Beads for Traffic Line Paint	4/30/2015	Potters Industries LLC	Public Works & Utilities	5/7/2013 - 4/30/2014	1 - 1 year option
Glass, Window and Plate	4/30/2015	Wickham Industries Inc.	Various	5/1/2012 - 4/30/2013	Last option
Grounds Maintenance at Brooks Landfill, Chapin LFG Collection, and John's Sludge Pond	4/30/2015	D&R Mowing Services, L.L.C.	Public Works & Utilities	5/7/2013 - 4/30/2014	3 - 1 year options
Liquid Carbon Dioxide - Bulk Delivery	4/30/2014	EPCO Carbon Dioxide Products, Inc.	Public Works & Utilities	5/15/2012 - 4/30/2013	1 - 1 year option
Liquid Chlorine (Bulk Delivery)	4/30/2015	Brenntag Southwest, Inc.	Public Works & Utilities	5/1/2013 - 4/30/2014	1 - 1 year option
Mow, Edge, Trim & Maintenance at Cowtown Museum	4/30/2015	Landscapes, Inc.	City Manager	5/1/2013 - 4/30/2014	1 - 1 year option
Mowing, Trimming and Maintenance of Cemeteries	4/30/2015	Michael's Complete Lawn Care, Inc.	Park & Recreation	5/1/2013 - 4/30/2014	1 - 1 year option
Oils -Lubricating, Gear, Grease, Transmission Fluid and Oil Analysis - (Alternate Bid) Group 1	4/30/2015	Crossfaith Ventures LC dba Ramsey Oil	Various	5/16/2012 - 4/30/2013	Last option
Pest Control - Various	4/30/2015	Reliable Pest Management	Various	5/1/2012 - 4/30/2013	Last option
Police Cycling Helmets & Gloves	4/30/2015	MJS Enterprises, Inc. dba Bicycle X-Change	Police	5/1/2003 - 4/30/2004	Annual basis
Security Services - Downtown Transit Center	4/30/2014	Universal Protection Service, LLC	Transit	5/1/2013 - 4/30/2014	2 - 1 year options
Tire Repair & Service	4/30/2015	Becker Tire of Wichita	Various	5/8/2012 - 4/30/2013	Last option
Trash Containers and Collection Services - Various	4/30/2015	Waste Connections of Kansas, Inc.	Various	5/7/2013 - 4/30/2014	1 - 1 year option

**PROFESSIONAL CONTRACTS UNDER \$25,000
APRIL 2014**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Transystems Corporation	PO440282	Engineering Consulting	24,000.00		
Professional Engineering Consultants	PO440306	Architect Services, Professional	\$24,463.00		
Professional Engineering Consultants	PO440307	Architect Services, Professional	\$24,708.00		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000
DIRECT PURCHASE ORDERS FOR APRIL 2014**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
Unify Inc.	DP440204	Software Maintenance/Support	\$65,361.92		
Unify inc.	DP440205	Software Maintenance/Support	\$116,516.17		
Perkinelmer Health Sciences Inc.	DP440185	Laboratory Equipment and Accessories, Maint.	\$25,452.00		
Environmental Systems Research	DP440249	Software Maintenance/Support	\$26,984.00		

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: Playground Improvements at Dr. Glen Dey Park and Central & Grove Park - Vendor Selection. (District I)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the vendor selection.

Background: On August 13, 2013, the City Council approved the 2012 and 2013 Playground Rehab/Development project, which constructs and rehabilitates playgrounds throughout the City's park system. A portion of these funds were used to address immediate needs at Aley Park, allowing the north playground to be resurfaced, restored and reopened.

Other priority needs include the older portions of the playgrounds at Dr. Glen Dey Park, which have suffered from vandalism and wear. At the same time the Elm Neighborhood Association has requested a new playground at Central and Grove. A Request for Proposal was prepared to solicit vendors to make these improvements. Proposals were received November 6, 2013, reviewed and short listed by the Staff Screening and Selection Committee (SSSC) in December, with interviews held in January. Vendors have since completed refined designs.

Analysis: Three companies were selected to design, rehabilitate and construct the playgrounds. Versa Sport of Kansas was selected to construct the playground at Central and Grove. Their design utilizes equipment of high quality and particularly low maintenance with a focus on younger users. ATHCO, LLC was selected to make equipment improvements at Dr. Glen Dey Park. The open nature of the design will encourage exercise and creative play, while improving visibility. DuraPlay, Inc. will install the Poured-in-Place (PIP) surfacing at Dr. Glen Dey Park.

Financial Considerations: General Obligation funding for 2012-2013 playgrounds is \$200,000. An additional \$50,000 in Community Development Block Grant (CDBG) funding may be provided for Dr. Glen Dey Park playground improvements, for a total of \$250,000. The contract with Versa Sport is \$46,005, the contract with ATHCO is \$127,073, and the contract with DuraPlay is \$23,706.

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

Recommendation/Action: It is recommended that the City Council 1) approve the vendor selection, 2) approve the contracts and 3) authorize all necessary signatures.

Attachment: Contracts

C O N T R A C T

THIS AGREEMENT made and entered into this 13th day of May, 2014, by and between the **CITY OF WICHITA**, a municipal corporation, hereinafter known as “**CITY**”, and **DURAPLAY, INC.** (Performance Vendor Code Number – 828870-001) whose principal office is at 1818 Flite Acres Rd., Wimberley, Texas, telephone number (512) 847-9577, hereinafter known as the “**CONTRACTOR**”.

WITNESSETH, That for and in consideration of covenants hereinafter set out the **CONTRACTOR** contracts, promises and agrees to and with the **CITY** that **DuraPlay, Inc.** will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for **Poured-In-Place (PIP) Safety Surfacing at Dr. Glen Dey Park** - Formal Proposal – FP340052 for the Park & Recreation Department / Recreation Division in the City of Wichita, Sedgwick County, Kansas. The proposal package, plans, specifications and addenda provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP340052, dated November 13, 2013, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on May 13, 2014, which plans, specifications, addenda and proposals are on file in the office of the City Purchasing Manager of said **CITY**, and are hereby incorporated and made a part of this contract to the same extend as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before **90 days from the notice to proceed date** for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement **DuraPlay, Inc.** will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the

public, and that **DuraPlay, Inc.** will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said **CONTRACTOR**, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said **CONTRACTOR** without any expense to the **CITY** whatsoever. **CONTRACTOR** to furnish to the **CITY** any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the **CITY** a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said **CONTRACTOR** and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

Indemnification and Insurance.

a. **CONTRACTOR** 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 **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract. **Contractor** expressly warrants that it will procure and maintain commercial general liability insurance from an insurer reasonably acceptable to the **City**, including coverage sufficient to meet the reasonably anticipated risks covered by this indemnification provision.

b. **CONTRACTOR** 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, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 Each Accident \$500,000 Aggregate \$100,000 Occupational Disease
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CITY shall pay **CONTRACTOR** the following amount for the contract work:

Poured-In-Place (PIP) Safety Surfacing at Dr. Glen Dey Park as per specifications of Request for Proposal – FP340052

TOTAL MAXIMUM CONTRACT AMOUNT: \$23,706.00

The **CONTRACTOR** shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time **CONTRACTOR** shall be entitled to final payment.

If the **CONTRACTOR** fails to complete all requirements identified within these specifications by **90 days from the notice to proceed date from the City of Wichita**, it is understood and the **CONTRACTOR** hereby **agrees that the amount of one hundred dollars (\$100.00) per calendar day per park to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR** for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. **CONTRACTOR** will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the **CONTRACTOR** (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the **CONTRACTOR** to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the **CONTRACTOR** must re-negotiate delivery schedules.

The **CONTRACTOR**, in performing the work required under this contract agrees to comply with the provisions of the **attached CDBG requirements, contract provision compliance requirements** and of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the **CONTRACTOR**, 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 City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

Compliance with Laws. **CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.

No Assignment. The services to be provided by the **CONTRACTOR** under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the **CITY**.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in 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.

No Arbitration. The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas. The parties agree that this contract has been created in Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the **CONTRACTOR** has caused these presents to be duly executed the day and year first herein written.

ATTEST:

THE CITY OF WICHITA

Janis Edwards
Deputy City Clerk

Melinda A. Walker
Purchasing Manager

APPROVED AS TO FORM:

DURAPLAY, INC.

Gary E. Rebenstorf
Director of Law

Signature

CITY OF WICHITA, KANSAS

Print Signature Name

Carl Brewer, Mayor

Title (*President or Corporate Officer*)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

C O N T R A C T

THIS AGREEMENT made and entered into this 13th day of May, 2014, by and between the **CITY OF WICHITA**, a municipal corporation, hereinafter known as “**CITY**”, and **VERSASPORT OF KANSAS** (Performance Vendor Code Number – 801864-001) whose principal office is at 2705 N. Pepper Ridge, Wichita, Kansas, 67205, telephone number (913) 469-5996, hereinafter known as the “**CONTRACTOR**”.

WITNESSETH, That for and in consideration of covenants hereinafter set out the **CONTRACTOR** contracts, promises and agrees to and with the **CITY** that **VERSASPORT OF KANSAS** will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for **Design, Furnish & Install Playground Equipment and Improvements at Central & Grove Park** - Formal Proposal – FP340052 for the Park & Recreation Department / Recreation Division in the City of Wichita, Sedgwick County, Kansas. The proposal package, plans, specifications and addenda provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP340052, dated November 13, 2013, and the contractor’s proposal, as approved, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on May 13, 2014, which plans, specifications, addenda and proposals are on file in the office of the City Purchasing Manager of said **CITY**, and are hereby incorporated and made a part of this contract to the same extend as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before **90 days from the notice to proceed date** for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement **VersaSport of Kansas** will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the public, and that **Versasport of Kansas** will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said **CONTRACTOR**, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said **CONTRACTOR** without any expense to the **CITY** whatsoever. **CONTRACTOR** to furnish to the **CITY** any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the **CITY** a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said **CONTRACTOR** and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

Indemnification and Insurance.

a. **CONTRACTOR** 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 **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract. **Contractor** expressly warrants that it will procure and maintain commercial general liability insurance from an insurer reasonably acceptable to the **City**, including coverage sufficient to meet the reasonably anticipated risks covered by this indemnification provision.

b. **CONTRACTOR** 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, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 Each Accident \$500,000 Aggregate \$100,000 Occupational Disease
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CITY shall pay **CONTRACTOR** the following amount for the contract work:

Furnish all labor, material, and equipment for the Design, Furnish, and Install Playground Equipment, Surfacing and Improvements at Central and Grove Park as per specifications of Request for Proposal – FP340052.

TOTAL MAXIMUM CONTRACT AMOUNT: \$46,005.00

The **CONTRACTOR** shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time **CONTRACTOR** shall be entitled to final payment.

If the **CONTRACTOR** fails to complete all requirements identified within these specifications by **90 days from the notice to proceed date from the City of Wichita**, it is understood and the **CONTRACTOR** hereby **agrees that the amount of one hundred dollars (\$100.00) per calendar day per park to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR** for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. **CONTRACTOR** will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the **CONTRACTOR** (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the **CONTRACTOR** to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the **CONTRACTOR** must re-negotiate delivery schedules.

The **CONTRACTOR**, in performing the work required under this contract, agrees to comply with the provisions of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the **CONTRACTOR**, 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 City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

Compliance with Laws. **CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.

No Assignment. The services to be provided by the **CONTRACTOR** under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the **CITY**.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in 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.

No Arbitration. The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas. The parties agree that this contract has been created in Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the **CONTRACTOR** has caused these presents to be duly executed the day and year first herein written.

ATTEST:

THE CITY OF WICHITA

Janis Edwards
Deputy City Clerk

Melinda A. Walker
Purchasing Manager

APPROVED AS TO FORM:

VERSASPORT OF KANSAS

Gary E. Rebenstorf
Director of Law

Signature

CITY OF WICHITA, KANSAS

Print Signature Name

Carl Brewer, Mayor

Title (*Managing Member*)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

C O N T R A C T

THIS AGREEMENT made and entered into this 13th day of May, 2014, by and between the **CITY OF WICHITA**, a municipal corporation, hereinafter known as “**CITY**”, and **DURAPLAY, INC.** (Performance Vendor Code Number – 828870-001) whose principal office is at 1818 Flite Acres Rd., Wimberley, Texas, telephone number (512) 847-9577, hereinafter known as the “**CONTRACTOR**”.

WITNESSETH, That for and in consideration of covenants hereinafter set out the **CONTRACTOR** contracts, promises and agrees to and with the **CITY** that **DuraPlay, Inc.** will furnish all the material and labor necessary to perform the mechanical, electrical, plumbing, and add alternates and/or options as required by the specifications and work orders for the City of Wichita, for **Poured-In-Place (PIP) Safety Surfacing at Dr. Glen Dey Park** - Formal Proposal – FP340052 for the Park & Recreation Department / Recreation Division in the City of Wichita, Sedgwick County, Kansas. The proposal package, plans, specifications and addenda provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP340052, dated November 13, 2013, shall be considered a part of this contract and are incorporated by reference herein, as approved by the City Council on May 13, 2014, which plans, specifications, addenda and proposals are on file in the office of the City Purchasing Manager of said **CITY**, and are hereby incorporated and made a part of this contract to the same extend as if fully set out herein.

CONTRACTOR further agrees that the work under this contract shall be completed to the full satisfaction of the City Purchasing Manager of the City of Wichita on or before **90 days from the notice to proceed date** for completion. Said work shall be done under the direct supervision of said Purchasing Manager, or such other person as the City Council may direct, and that said Purchasing Manager's decision as to the material used in said improvement and the method in which the work is to be done shall be final and conclusive upon the parties hereto. Working days shall be as defined in the Standard Specifications of the City of Wichita.

CONTRACTOR further agrees that at all times during the prosecution of said improvement **DuraPlay, Inc.** will maintain the proper safeguards, barricades and lights on the work and every portion thereof to insure the highest degree of safety to the

public, and that **DuraPlay, Inc.** will hold the City of Wichita harmless in all suits for damages brought against either of the parties to this contract on account of the negligent acts, omissions or default of said **CONTRACTOR**, their agents or servants in the prosecution of the work on said improvement.

CONTRACTOR further agrees to maintain said improvement for a period of one (1) year from date of the completion and acceptance of same by the City of Wichita; this maintenance to be done and performed by said **CONTRACTOR** without any expense to the **CITY** whatsoever. **CONTRACTOR** to furnish to the **CITY** any manufacturer's warranty on materials as applicable.

CONTRACTOR shall furnish the **CITY** a good and sufficient bond guaranteeing the completion of said improvement and every part thereof according to the specifications and the bid of said **CONTRACTOR** and the terms of this contract; conditioned further, for the maintenance of said improvements as herein before provided.

CONTRACTOR shall furnish a bond to the State of Kansas in the total amount of this contract; conditioned upon the payment of all material and labor bills incurred in the making of said improvement.

Indemnification and Insurance.

a. **CONTRACTOR** 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 **CONTRACTOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract. **Contractor** expressly warrants that it will procure and maintain commercial general liability insurance from an insurer reasonably acceptable to the **City**, including coverage sufficient to meet the reasonably anticipated risks covered by this indemnification provision.

b. **CONTRACTOR** 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, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	\$500,000 each occurrence \$500,000 each aggregate
Property Damage Liability	\$500,000 each occurrence \$500,000 each aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each occurrence \$500,000 each aggregate

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

Bodily Injury Liability	\$500,000 each accident
Property Damage Liability	\$500,000 each accident
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	\$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:

Employers Liability	\$100,000 Each Accident \$500,000 Aggregate \$100,000 Occupational Disease
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CITY shall pay **CONTRACTOR** the following amount for the contract work:

Poured-In-Place (PIP) Safety Surfacing at Dr. Glen Dey Park as per specifications of Request for Proposal – FP340052

TOTAL MAXIMUM CONTRACT AMOUNT: **\$23,706.00**

The **CONTRACTOR** shall be entitled to payment of 90 percent of its progress estimates every thirty (30) days during the prosecution of said improvement; 10 percent of the total amount being at all times retained until final completion, at which time **CONTRACTOR** shall be entitled to final payment.

If the **CONTRACTOR** fails to complete all requirements identified within these specifications by **90 days from the notice to proceed date from the City of Wichita**, it is understood and the **CONTRACTOR** hereby **agrees that the amount of one hundred dollars (\$100.00) per calendar day per park to a maximum of the contract price may be deducted from the moneys due the CONTRACTOR** for each intervening calendar day any work remains incomplete, not as a penalty but as liquidated damages. **CONTRACTOR** will not be liable if performance failure arises out of causes beyond their control and without fault or negligence of the **CONTRACTOR** (e.g., acts of God, war, fires, floods, freight embargoes). Should a performance failure occur, it will be the responsibility of the **CONTRACTOR** to notify the Purchasing Manager in writing and submit proof of the circumstance responsible for non-performance, the **CONTRACTOR** must re-negotiate delivery schedules.

The **CONTRACTOR**, in performing the work required under this contract agrees to comply with the provisions of the **attached CDBG requirements, contract provision compliance requirements** and of the "Revised Non-Discrimination and Equal Employment Opportunity Statement For Contracts or Agreement" of the City of Wichita, which is incorporated herein by reference and attached as "Exhibit A".

For good cause, and as consideration for executing this contract, the **CONTRACTOR**, 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 City of Wichita pursuant to this contract.

Independent Contractor. The relationship of the **CONTRACTOR** to the **CITY** will be that of an independent contractor. No employee or agent of the **CONTRACTOR** shall be considered an employee of the **CITY**.

Compliance with Laws. **CONTRACTOR** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this contract.

No Assignment. The services to be provided by the **CONTRACTOR** under this contract are personal and cannot be assigned, delegated, sublet or transferred without the specific written consent of the **CITY**.

Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this contract to create in 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.

No Arbitration. The **CONTRACTOR** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

Governing Law. This contract shall be interpreted according to the laws of the State of Kansas. The parties agree that this contract has been created in Kansas.

Representative's Authority to Contract. By signing this contract, the representative of the contractor or vendor represents that he or she is duly authorized by the contractor or vendor to execute this contract, and that the contractor or vendor has agreed to be bound by all its provisions.

IN WITNESS WHEREOF the City of Wichita has caused these presents to be signed by its Purchasing Manager and attested by its clerk with the seal of the City of Wichita impressed hereon, and the **CONTRACTOR** has caused these presents to be duly executed the day and year first herein written.

ATTEST:

THE CITY OF WICHITA

Janis Edwards
Deputy City Clerk

Melinda A. Walker
Purchasing Manager

APPROVED AS TO FORM:

DURAPLAY, INC.

Gary E. Rebenstorf
Director of Law

Signature

CITY OF WICHITA, KANSAS

Print Signature Name

Carl Brewer, Mayor

Title (*President or Corporate Officer*)

EXHIBIT A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.



**DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM**

TO: Karen Sublett, City Clerk
FROM: Gary E. Rebenstorf, Director of Law
SUBJECT: Report on Claims for March 2014
DATE: April 23, 2014

The following claims were approved by the Law Department during the month of March 2014.

Cox Communications	\$ 463.30
Donalson, Larry	\$1,283.98
Kansas Gas Service	\$1,520.53
Samms, Patricia	\$ 435.63

*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

CITY OF WICHITA
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: Sale of City-Owned Land Near 159th Street East and 85th Street North

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the sales.

Background: In 1996, the City acquired land in northeast Sedgwick County as a potential site for a future landfill. In 2011, a significant portion of the assemblage was transferred to Sedgwick County to satisfy jail fees owed by the City. After the transfer, the City retained ownership to agriculture land totaling 388.53 acres. These parcels were determined to be surplus to the City's needs and a real estate broker was selected via a request for proposal to market the property. It was determined that the property was to be marketed and sold at auction.

Analysis: The land was marketed as four parcels via mailings, internet solicitations, newspaper advertisements, etc. The property auction was held on April 26, 2014. There were 17 registered bidders. The four parcels sold to four different individuals. The sales prices totaled \$1,340,026 or \$3,449 per acre. The successful bidders have deposited ten percent of sale price with the title company as earnest money. Upon approval of the contracts, closings will be arranged. The City will be responsible for sales commissions and half of all closing costs.

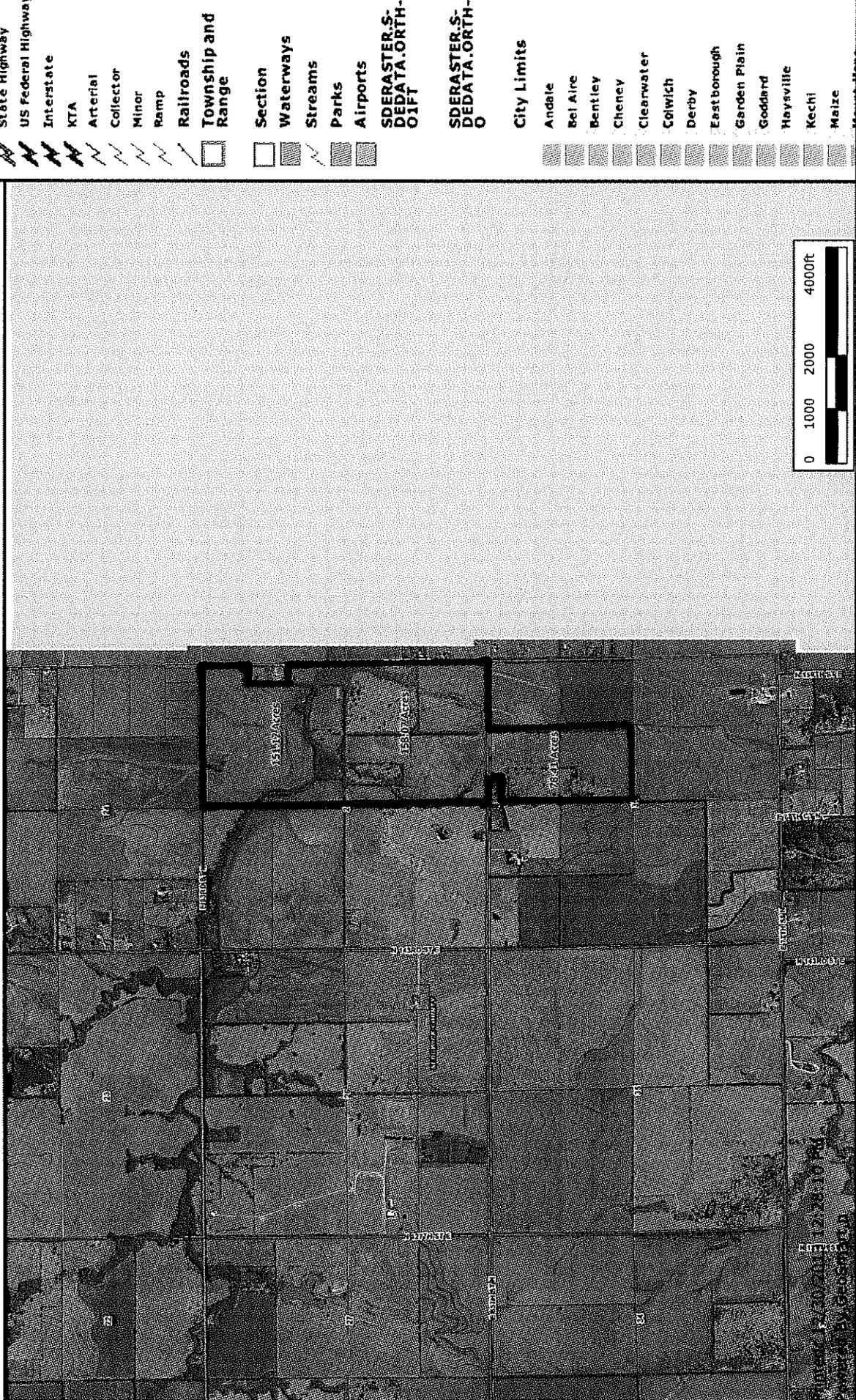
Financial Considerations: The City will receive cash consideration for the sale of the property, less the sales commission, \$2,500 for marketing and advertising and half of all closing costs.

Legal Considerations: The Law Department has approved purchase contracts as to form.

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

Attachments: Real estate purchase agreements and aerial.

Furley Sale Parcels



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations a possible through these web pages.



**REAL ESTATE PURCHASE CONTRACT
TRACT 1**

THIS AGREEMENT (the Agreement) is made and entered into between The City of Wichita (Seller, whether one or more) and Arthur Busenitz, Inc. (Buyer, whether one or more). Seller and Buyer agree as follows:

1. **Property.** The Seller agrees to sell and convey to Buyer by general warranty deed the following described real property (the Property):

The Northeast Quarter of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part described as follows: Commencing at the Northeast corner of the Northeast Quarter of said Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence South 895 feet to a point of beginning; thence West a distance of 390 feet; thence South a distance of 695 feet; thence East a distance of 390 feet; thence North a distance of 695 feet to the place of beginning. Said property contains 151.12 acres more or less.

The legal description for the Property is to be confirmed by the title evidence required to be provided by Seller. See Exhibit "A" attached hereto and made a part hereof, for a visual description of the Property.

2. **Purchase Price.** Buyer agrees to purchase, and to pay to Seller, as consideration for the conveyance of the Property, the sum of Five Hundred Twenty One Thousand Three Hundred Sixty Four and 40/100 (\$521,364.00) Dollars in the following manner: 10% down as earnest money in the amount of \$ 52,136.40 with the remaining balance to be paid in cash at closing.
3. **Title Evidence.** Seller agrees to share equally with Buyer the closing agent costs and the cost of a title insurance company's commitment and policy (Buyer's coverage, but not lender's coverage's) to insure the Property, showing a merchantable title vested in Seller, subject to easements, restrictions, covenants and other matters of record. The title evidence shall be presented to prospective Buyer on day of auction. If Seller fails to satisfy all such title requirements imposed on Seller pursuant to the title commitment, Buyer may, at Buyer's election, either: (a) cancel this agreement and receive a return of Buyer's earnest money and, in that event, this Agreement will be canceled and the parties will have no further obligations to each other; or (b) accept such title as Seller can deliver.
4. **Delivery.** A duly executed copy of this Agreement shall be delivered to the parties.
5. **Earnest Money.** Buyer hereby deposits with Security 1st Title upon the execution of this Agreement the sum of Fifty Two Thousand One Hundred Thirty Six and 40/100 (\$52,136.40) Dollars, earnest money, as a guarantee that the terms and conditions of this Agreement shall be fulfilled by Buyer, said deposit to be applied on the purchase price upon acceptance of title by Buyer and delivery of deed by Seller. If Buyer fails to fulfill its obligations under this Agreement, Seller may, at its option, cancel this Agreement and the earnest money deposit shall then become the property of Seller, not as a penalty, but as liquidated damages, or seek specific performance. Notwithstanding any of the other terms of this Agreement providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all parties to this Agreement.
6. **Proration.** All taxes and cash rent shall be adjusted and prorated through the date of closing. Taxes shall be prorated for the calendar year on the basis of taxes levied. If taxes have not been levied, then they will be prorated based upon taxes for the previous year, adjusted for the most recent mill levy, if known. The cash rent proration for Tract 1 will based off \$4,546.80.
7. **Closing Date.** Time is of the essence of this Agreement, and this transaction shall be consummated within thirty (30) days after the full execution of this contract.
8. **Possession.** Possession to be given to Buyer at closing, subject to current tenant's rights. See Exhibit "B" attached and made a part hereto.
9. **Agency Disclosure.** J. P. Weigand & Sons, Inc. (Weigand) is functioning as a transaction broker in this transaction with Terry Rupp, John Rupp, Bradley Tidemann and Grant Tidemann acting as designated agents of the Seller representing the Seller's interest.

10. **Representations and Recommendations.** Unless otherwise stated in writing, neither Weigand, its brokers or salespersons have made, on their own behalf, any representations or warranties, express or implied, with respect to any element of the Property, including, but not limited to, the legal sufficiency, legal effect, or tax consequences of this transaction. Any information furnished to either party or in any property condition report should be independently verified by that party before that party relies on such information. Buyer hereby agrees to hold Weigand, its brokers or salespersons harmless if Seller has failed to disclose any known defect or material fact regarding the Property. Buyer, again acknowledges that this is an "As Is" "Where Is" sale and that Buyer should not and is not relying on any information or lack thereof provided by Weigand and/or Seller.

Any representations made herein have been made by Weigand, its brokers or salespersons based on information supplied by sources believed to be reliable, and Weigand, its brokers or salespersons have not assumed any responsibility, directly or indirectly, with respect to any representations or warranties which have been made, if any. Since Weigand is acting as broker only, neither Weigand, its brokers or salespersons shall, under any circumstances, be held liable to Buyer for performance or lack of performance of any other terms or conditions of this Agreement, or for damages arising out of or relating to the contents of this Agreement over the performance or nonperformance of either of the parties to this Agreement. Weigand recommends that Buyer consult its attorneys and accountants before signing this Agreement in regard to the terms and conditions of this Agreement and that Seller satisfy himself/herself/itself as to the financial ability of Buyer to perform.

11. **Inspection.** Buyer has carefully examined the Property and the improvements located thereon and, in making the decision to buy the Property, Buyer is relying wholly and completely on Buyer's own judgment and the judgment of any contractors or inspectors Buyer may have selected. Buyer agrees that the purchase price was negotiated after consideration of all possible defects in the Property (including any environmental defects or problems), and Buyer purchases the Property in its present condition, "as is, where is" and without warranties or representations of any kind, concerning the condition, suitability, or value of the Property. Buyer acknowledges that neither Seller nor any broker or salesperson involved in this transaction is an expert at detecting or repairing physical defects in the Property.
12. **Environmental Conditions.** Buyer and Seller agree that Weigand and Weigand's brokers and salespersons do not have any expertise in evaluating the environmental condition of the Property and that Weigand and Weigand's brokers and salespersons have made no representation concerning environmental condition except as may be noted in writing as a part of this Agreement.
13. **Special Assessments.** Seller hereby discloses to Buyer, to the best of its knowledge, that the Property is not subject to existing special assessments. See Exhibit "C" attached and made a part hereto
14. **Crop and Government Payments.** Said property is on a cash rent agreement and the current farm tenant will retain any crops and government payments during his tenancy.
15. **Mineral Interests.** Seller to convey to Buyer 100% of Seller's mineral interest, if any, in the subject property.
16. **Agricultural Tenant.** See Exhibit "B" attached and made a part hereto.
17. **Survey.** The subject property is being sold by legal description and a survey will not be provided by Seller. Buyer, at Buyer's sole election and cost, may have a survey performed on the subject property to determine the exact boundaries.
18. **Hunting & Fishing Leases.** Seller acknowledges that there are no current hunting or fishing leases on the subject property. Seller agrees not to enter into any lease agreements on the subject property prior to closing.
19. **1031 Tax Deferred Exchange.** A material part of the consideration to Buyer for purchasing the Property from Seller and Seller selling the Property to Buyer is that both Buyer and Seller have the option to qualify this transaction as part of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986.
20. **Approval of Seller.** The sale of the property is subject to the approval of the Seller.
21. **Where Is, As Is Condition.** Buyer is purchasing the subject property in its "where is, as is" condition.
22. **Acceptance or Rejection.** Seller shall have five (5) days from the receipt of this contract in which to accept or reject said contract. In the event said contract is not accepted, in writing, within said time frame, this contract shall be deemed null and void.

- 23. **Commission.** Seller agrees to pay J. P. Weigand & Sons, Inc. per a separate agreement.
- 24. **Authority to Bind.** Each individual who executes this Agreement on behalf of a party represents that he or she is duly authorized to execute this Agreement on behalf of that party and is operating within the scope of his or her authority
- 25. **Good Faith.** Each party to this Agreement shall use good faith and his or its best efforts to accomplish the actions provided for in this Agreement in due time and to cooperate with all other parties in doing so.
- 26. **Counterparts.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representative and assigns and may be executed in multiple counterparts, each of which shall be deemed, construed, and considered to be an original, but all of which constitute one and the same instrument.
- 27. **Agreement to Terms.** Buyer and Seller acknowledge that they have read the entire Agreement and that by signing below agree to all terms contained herein.
- 28. **Binding Effect.** This Agreement shall be binding upon Buyer, Seller, and their respective heirs, successors, and assigns.

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

BUYER: Arthur Busenitz, Inc.

Tom B Busenitz 4/26/14
Tom Busenitz Date

Date

Date

SELLER:

By Direction of the City Council

Carl Brewer, Mayor Date

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

EXHIBIT "A"



EXHIBIT "B"

Apr 08 2014 12:00PM HP LASERJET FAX

P. 2

TENANT'S AGREEMENT

Whereas the City of Wichita are owners of the property described herein, and they have commissioned J.P. Weigand and Sons, Inc. to sell same at public auction the date of April 26th, 2014.

I, Bob Harder, being in possession of the land situated in Sedgwick County, Kansas and legally described as:

Tract 1: Northeast $\frac{1}{4}$, except a tract, in Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 151.12 acres more or less.

Possession of Tract 1 will be after the 2014 fall harvest. The land will be planted to corn.

Tract 2: East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 79 acres more or less.

Possession of Tract 2 will be after the harvest of the oats and bailing of the straw on the tillable acres. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the entire tract should be around the first part of August but no later than September 1st, 2014.

Tract 3: West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 80 acres more or less.

Possession of Tract 3 will be as follows. Possession of the acres planted to corn will be after the 2014 fall harvest. Possession of the acres planted to oats will be after the harvest of the oats and the bailing of the straw. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the acres planted to oats and the meadow should be around the first part of August but no later than September 1st, 2014.

Tract 4: West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$, except a tract, in Section 36, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 78.41 acres more or less.

Possession of Tract 4 will be as follows. The tillable acres planted to wheat will be after the 2014 wheat harvest. Possession of the meadow will be after the July 2014 bailing of the hay.

Formal Tenant's Agreement

Please note if you are desirous of continuing tenancy with an investor/purchaser; if so, you will be recommended. Yes, I would be interested in

leasing the listed tracts.

I further hereby grant to J.P. Weigand and Sons, Inc. and/or its representatives full right of entry in and upon said premises.

Dated this 8th day of April, 20104

Rob L. Weigand
Signature

Form/Tenant's Agreement

EXHIBIT "C"

3/26/2014

Property Detail



Sedgwick County...
working for you

Tract 1

www.sedgwickcounty.org

Property Detail Information

NE1/4 EXC BEG 895 FT S NE COR THEREOF TH W 390 FT S 695 FT E 390 FT N 695 FT TO BEG & EXC FOR RD ON N & E SEC 25-25-2E

\$ PAY TAXES [View Valuation Notice](#) Current year Valuation Notices are available after March 1st.

Legal Description: NE1/4 EXC BEG 895 FT S NE COR THEREOF TH W 390 FT S 695 FT E 390 FT N 695 FT TO BEG & EXC FOR RD ON N & E SEC 25-25-2E

Property Owner Name: CITY OF WICHITA

Mailing Address: 455 N MAIN WICHITA KS 67202-1615

Geo Code: LI 00150 PIN: 00276147 AIN: 017250110000100A

Tax Unit: 1301 345 LINCOLN TWP U-206-WRW LI Land Use: 9010 Farming/ranch land (no improvements)

Market Land Square Feet: Total Acres: 151.12

2014 Appraisal Value: \$25,240.00 2014 Assessment Value: \$7,572.00

Appraisal Values

Year	Class	Value	Assessment	Rate	Change %
2014	Agricultural	\$25,240	\$0	\$25,240	7%
2013	Agricultural	\$23,520	\$0	\$23,520	5%
2012	Agricultural	\$22,430	\$0	\$22,430	4%
2011	Agricultural	\$21,530	\$0	\$21,530	-1%
2010	Agricultural	\$21,760	\$0	\$21,760	-4%
2009	Agricultural	\$23,720	\$0	\$22,720	-10%
2008	Agricultural	\$25,360	\$0	\$25,360	-6%
2007	Agricultural	\$27,070	\$0	\$27,070	-2%
2006	Agricultural	\$27,710	\$0	\$27,710	0%
2005	Agricultural	\$27,580	\$0	\$27,580	0%

Assessment Values

Year	Class	Value	Assessment	Rate	Change %
2014	Agricultural	\$7,572	\$0	\$7,572	7%
2013	Agricultural	\$7,056	\$0	\$7,056	5%
2012	Agricultural	\$6,729	\$0	\$6,729	4%
2011	Agricultural	\$6,459	\$0	\$6,459	-1%
2010	Agricultural	\$6,528	\$0	\$6,528	-4%
2009	Agricultural	\$6,816	\$0	\$6,816	-10%
2008	Agricultural	\$7,608	\$0	\$7,608	-6%
2007	Agricultural	\$8,121	\$0	\$8,121	-2%

https://ssc.sedgwickcounty.org/taxinfochapp/PropertyDetail.aspx?gis=Y&ControlNum=00276147

1/2

3/26/2014

Property Detail

2006	Agricultural	\$8,313	\$0	\$8,313	0%
2005	Agricultural	\$8,274	\$0	\$8,274	0%

- 0201 COUNTY
- 1108 COUNTY FIRE DIST NO BONDS
- 0431 LINCOLN TOWNSHIP
- 9999 MV Average Levy for ST
- 1401 SOUTH CENTRAL KANSAS LIBRARY SYS
- 0101 STATE
- 0601 USD 206
- 0601 USD 206 SG
- 0701 USD 206 BOND
- 1703 WHITEWATER RIVER WATERSHED NO.22

Bills

Year	Assessed Value									
2013	3996764	118,0619	\$833.05	\$0.00	\$0.00	\$0.00	\$833.05	(\$416.53)	\$416.52	
2012	3245356	113,8328	\$765.97	\$0.00	\$0.00	\$0.00	\$765.97	(\$765.97)	\$0.00	
2011	2433253	111,7016	\$721.46	\$0.00	\$0.00	\$0.00	\$721.46	(\$721.46)	\$0.00	
2010	1749282	108,8411	\$710.51	\$0.00	\$0.00	\$0.00	\$710.51	(\$710.51)	\$0.00	
2009	764394	110,617	\$753.97	\$0.00	\$0.00	\$0.00	\$753.97	(\$753.97)	\$0.00	
2008	764393	109,34	\$831.86	\$0.00	\$0.00	\$0.00	\$831.86	(\$831.86)	\$0.00	
2007	764392	109,084	\$885.87	\$0.00	\$0.00	\$0.00	\$885.87	(\$885.87)	\$0.00	
2006	764391	109,314	\$908.73	\$0.00	\$0.00	\$0.00	\$908.73	(\$908.73)	\$0.00	
2005	764390	108,122	\$894.60	\$0.00	\$0.00	\$0.00	\$894.60	(\$894.60)	\$0.00	

<https://scc.sdc.wic.gov/wiccounty.org/haxinfowebapp/PropertyDetail.aspx?gis=Y&ControlNum=00276147>

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**REAL ESTATE PURCHASE CONTRACT
TRACT 2**

THIS AGREEMENT (the Agreement) is made and entered into between The City of Wichita (Seller, whether one or more) and Michael E. Nelson and for assigns (Buyer, whether one or more). Seller and Buyer agree as follows:

1. **Property.** The Seller agrees to sell and convey to Buyer by general warranty deed the following described real property (the Property):

The East Half of the Southeast Quarter of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Said property contains 79 acres more or less.

The legal description for the Property is to be confirmed by the title evidence required to be provided by Seller. See Exhibit "A" attached hereto and made a part hereof, for a visual description of the Property.
2. **Purchase Price.** Buyer agrees to purchase, and to pay to Seller, as consideration for the conveyance of the Property, the sum of Three Hundred Thirty Five Thousand Seven Hundred Fifty and no/100 (\$335,750.00) Dollars in the following manner: 10% down as earnest money in the amount of \$ 33,575.00 with the remaining balance to be paid in cash at closing.
3. **Title Evidence.** Seller agrees to share equally with Buyer the closing agent costs and the cost of a title insurance company's commitment and policy (Buyer's coverage, but not lender's coverage's) to insure the Property, showing a merchantable title vested in Seller, subject to easements, restrictions, covenants and other matters of record. The title evidence shall be presented to prospective Buyer on day of auction. If Seller fails to satisfy all such title requirements imposed on Seller pursuant to the title commitment, Buyer may, at Buyer's election, either: (a) cancel this agreement and receive a return of Buyer's earnest money and, in that event, this Agreement will be canceled and the parties will have no further obligations to each other; or (b) accept such title as Seller can deliver.
4. **Delivery.** A duly executed copy of this Agreement shall be delivered to the parties.
5. **Earnest Money.** Buyer hereby deposits with Security 1st Title upon the execution of this Agreement the sum of Thirty Three Thousand Five Hundred Seventy Five and no/100 (\$33,575.00) Dollars, earnest money, as a guarantee that the terms and conditions of this Agreement shall be fulfilled by Buyer, said deposit to be applied on the purchase price upon acceptance of title by Buyer and delivery of deed by Seller. If Buyer fails to fulfill its obligations under this Agreement, Seller may, at its option, cancel this Agreement and the earnest money deposit shall then become the property of Seller, not as a penalty, but as liquidated damages, or seek specific performance. Notwithstanding any of the other terms of this Agreement providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all parties to this Agreement.
6. **Proration.** All taxes and cash rent shall be adjusted and prorated through the date of closing. Taxes shall be prorated for the calendar year on the basis of taxes levied. If taxes have not been levied, then they will be prorated based upon taxes for the previous year, adjusted for the most recent mill levy, if known. The cash rent proration for Tract 2 will be based off \$1,885.00. Tract 2 is currently part of a larger tract.
7. **Closing Date.** Time is of the essence of this Agreement, and this transaction shall be consummated within thirty (30) days after the full execution of this contract.
8. **Possession.** Possession to be given to Buyer at closing, subject to current tenant's rights. See Exhibit "B" attached and made a part hereto.
9. **Agency Disclosure.** J. P. Weigand & Sons, Inc. (Weigand) is functioning as a transaction broker in this transaction with Terry Rupp, John Rupp, Bradley Tidemann and Grant Tidemann acting as designated agents of the Seller representing the Seller's interest.

10. **Representations and Recommendations.** Unless otherwise stated in writing, neither Weigand, its brokers or salespersons have made, on their own behalf, any representations or warranties, express or implied, with respect to any element of the Property, including, but not limited to, the legal sufficiency, legal effect, or tax consequences of this transaction. Any information furnished to either party or in any property condition report should be independently verified by that party before that party relies on such information. Buyer hereby agrees to hold Weigand, its brokers or salespersons harmless if Seller has failed to disclose any known defect or material fact regarding the Property. Buyer, again acknowledges that this is an "As Is" "Where Is" sale and that Buyer should not and is not relying on any information or lack thereof provided by Weigand and/or Seller.

Any representations made herein have been made by Weigand, its brokers or salespersons based on information supplied by sources believed to be reliable, and Weigand, its brokers or salespersons have not assumed any responsibility, directly or indirectly, with respect to any representations or warranties which have been made, if any. Since Weigand is acting as broker only, neither Weigand, its brokers or salespersons shall, under any circumstances, be held liable to Buyer for performance or lack of performance of any other terms or conditions of this Agreement, or for damages arising out of or relating to the contents of this Agreement over the performance or nonperformance of either of the parties to this Agreement. Weigand recommends that Buyer consult its attorneys and accountants before signing this Agreement in regard to the terms and conditions of this Agreement and that Seller satisfy himself/herself/itself as to the financial ability of Buyer to perform.

11. **Inspection.** Buyer has carefully examined the Property and the improvements located thereon and, in making the decision to buy the Property, Buyer is relying wholly and completely on Buyer's own judgment and the judgment of any contractors or inspectors Buyer may have selected. Buyer agrees that the purchase price was negotiated after consideration of all possible defects in the Property (including any environmental defects or problems), and Buyer purchases the Property in its present condition, "as is, where is" and without warranties or representations of any kind, concerning the condition, suitability, or value of the Property. Buyer acknowledges that neither Seller nor any broker or salesperson involved in this transaction is an expert at detecting or repairing physical defects in the Property.
12. **Environmental Conditions.** Buyer and Seller agree that Weigand and Weigand's brokers and salespersons do not have any expertise in evaluating the environmental condition of the Property and that Weigand and Weigand's brokers and salespersons have made no representation concerning environmental condition except as may be noted in writing as a part of this Agreement.
13. **Special Assessments.** Seller hereby discloses to Buyer, to the best of its knowledge, that the Property is not subject to existing special assessments. See Exhibit "C" attached and made a hereto.
14. **Crop and Government Payments.** Said property is on a cash rent agreement and the current from tenant will retain any crops and government payments during his tenancy.
15. **Mineral Interests.** Seller to convey to Buyer 100% of Seller's mineral interest, if any, in the subject property.
16. **Agricultural Tenant.** See Exhibit "B" attached and made a part hereto.
17. **Survey.** The subject property is being sold by legal description and a survey will not be provided by Seller. Buyer, at Buyer's sole election and cost, may have a survey performed on the subject property to determine the exact boundaries.
18. **Hunting & Fishing Leases.** Seller acknowledges that there are no current hunting or fishing leases on the subject property. Seller agrees not to enter into any lease agreements on the subject property prior to closing.
19. **1031 Tax Deferred Exchange.** A material part of the consideration to Buyer for purchasing the Property from Seller and Seller selling the Property to Buyer is that both Buyer and Seller have the option to qualify this transaction as part of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986.
20. **Approval of Seller.** The sale of the property is subject to the approval of the Seller.
21. **Where Is, As Is Condition.** Buyer is purchasing the subject property in its "where is, as is" condition.
22. **Acceptance or Rejection.** Seller shall have five (5) days from the receipt of this contract in which to accept or reject said contract. In the event said contract is not accepted, in writing, within said time frame, this contract shall be deemed null and void.

EXHIBIT "A"



EXHIBIT "B"

Apr 08 2014 12:00PM HP LASERJET FAX

P. 2

TENANT'S AGREEMENT

Whereas the City of Wichita are owners of the property described herein, and they have commissioned J.P. Weigand and Sons, Inc. to sell same at public auction the date of April 26th, 2014.

I, Bob Harder, being in possession of the land situated in Sedgwick County, Kansas and legally described as:

Tract 1: Northeast $\frac{1}{4}$, except a tract, in Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 151.12 acres more or less.

Possession of Tract 1 will be after the 2014 fall harvest. The land will be planted to corn.

Tract 2: East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 79 acres more or less.

Possession of Tract 2 will be after the harvest of the oats and baling of the straw on the tillable acres. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the entire tract should be around the first part of August but no later than September 1st, 2014.

Tract 3: West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 80 acres more or less.

Possession of Tract 3 will be as follows. Possession of the acres planted to corn will be after the 2014 fall harvest. Possession of the acres planted to oats will be after the harvest of the oats and the bailing of the straw. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the acres planted to oats and the meadow should be around the first part of August but no later than September 1st, 2014.

Tract 4: West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$, except a tract, in Section 36, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 78.41 acres more or less.

Possession of Tract 4 will be as follows. The tillable acres planted to wheat will be after the 2014 wheat harvest. Possession of the meadow will be after the July 2014 bailing of the hay.

Tenant's Agreement

Please note if you are desirous of continuing tenancy with an investor/purchaser; if so, you will be recommended.

Yes, I would be interested in
leasing the listed tracts.

I further hereby grant to J.P. Weigand and Sons, Inc. and/or its representatives full right of entry in and upon said premises.

Dated this 8th day of April, 20104

Robt L. Weigand
Signature

Tenant's Agreement

EXHIBIT "C"

3/18/2014

Property Detail



Sedgwick County...
working for you

www.sedgwickcounty.org

Tracts 2 + 3

Property Detail Information

SE1/4 SEC 25-25-2E

\$ PAY TAXES [View Valuation Notice](#) Current year Valuation Notices are available after March 1st.

Legal Description: SE1/4 SEC 25-25-2E
 Property Owner Name: CITY OF WICHITA
 Mailing Address: 455 N MAIN WICHITA KS 67202-1615
 Geo Code: LJ 00152 PIN: 00276150 AIN: 017250110000100B
 Tax Unit: 1301 345 LINCOLN TWP U-206-WRW LJ Land Use: 9010 Farming/ranch land (no improvements)

Market Land Square Feet: N/A Total Acres: 158.07
 2014 Appraisal Value: \$5,980.00 2014 Assessment Value: \$1,794.00

Historical Values

Year	Category	Value	Change	Assessment	% Change
2014	Agricultural	\$5,980	\$0	\$5,980	14%
2013	Agricultural	\$5,260	\$0	\$5,260	7%
2012	Agricultural	\$4,900	\$0	\$4,900	-1%
2011	Agricultural	\$4,930	\$0	\$4,930	-7%
2010	Agricultural	\$5,280	\$0	\$5,280	-19%
2009	Agricultural	\$6,490	\$0	\$6,490	-24%
2008	Agricultural	\$8,510	\$0	\$8,510	-18%
2007	Agricultural	\$10,400	\$0	\$10,400	-17%
2006	Agricultural	\$12,490	\$0	\$12,490	-9%
2005	Agricultural	\$13,710	\$0	\$13,710	0%

Assessed Values

Year	Category	Value	Change	Assessment	% Change
2014	Agricultural	\$1,794	\$0	\$1,794	14%
2013	Agricultural	\$1,578	\$0	\$1,578	7%
2012	Agricultural	\$1,470	\$0	\$1,470	-1%
2011	Agricultural	\$1,479	\$0	\$1,479	-7%
2010	Agricultural	\$1,584	\$0	\$1,584	-19%
2009	Agricultural	\$1,947	\$0	\$1,947	-24%
2008	Agricultural	\$2,553	\$0	\$2,553	-18%
2007	Agricultural	\$3,120	\$0	\$3,120	-17%
2006	Agricultural	\$3,747	\$0	\$3,747	-9%
2005	Agricultural	\$4,113	\$0	\$4,113	0%

https://scc.sedgwickcounty.org/ta/infowebapp/PropertyDetail.aspx?gis=Y&ContrIDNum=00276150

1/2

3/18/2014

Property Detail

0201 COUNTY
1108 COUNTY FIRE DIST NO BONDS
0431 LINCOLN TOWNSHIP
9999 MV Average Levy for ST
1401 SOUTH CENTRAL KANSAS LIBRARY SYS
0101 STATE
0601 USD 206
0601 USD 206 SG
0701 USD 206 BOND
1703 WHITEWATER RIVER WATERSHED NO.22

Year	Assessed Value									
2013	3996767	118.0619	\$186.29	\$0.00	\$0.00	\$0.00	\$186.29	(\$93.15)	\$93.14	
2012	3245359	113.8328	\$167.35	\$0.00	\$0.00	\$0.00	\$167.35	(\$167.35)	\$0.00	
2011	2433256	111.7016	\$165.19	\$0.00	\$0.00	\$0.00	\$165.19	(\$165.19)	\$0.00	
2010	1749285	108.8411	\$172.40	\$0.00	\$0.00	\$0.00	\$172.40	(\$172.40)	\$0.00	
2009	764409	110.617	\$215.37	\$0.00	\$0.00	\$0.00	\$215.37	(\$215.37)	\$0.00	
2008	764408	109.34	\$279.15	\$0.00	\$0.00	\$0.00	\$279.15	(\$279.15)	\$0.00	
2007	764407	109.084	\$340.34	\$0.00	\$0.00	\$0.00	\$340.34	(\$340.34)	\$0.00	
2006	764406	109.314	\$409.60	\$0.00	\$0.00	\$0.00	\$409.60	(\$409.60)	\$0.00	
2005	764405	108.122	\$444.71	\$0.00	\$0.00	\$0.00	\$444.71	(\$444.71)	\$0.00	

**REAL ESTATE PURCHASE CONTRACT
TRACT 3**

THIS AGREEMENT (the Agreement) is made and entered into between The City of Wichita (Seller, whether one or more) and Donald and/or Janice E. Herman (Buyer, whether one or more). Seller and Buyer agree as follows:

1. **Property.** The Seller agrees to sell and convey to Buyer by general warranty deed the following described real property (the Property):

The West Half of the Southeast Quarter of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Said property contains 80 acres more or less.

The legal description for the Property is to be confirmed by the title evidence required to be provided by Seller. See Exhibit "A" attached hereto and made a part hereof, for a visual description of the Property.
2. **Purchase Price.** Buyer agrees to purchase, and to pay to Seller, as consideration for the conveyance of the Property, the sum of Two Hundred Thirty Two Thousand and No/100 (\$232,000.00) Dollars in the following manner: 10% down as earnest money in the amount of \$ 23,200.00 with the remaining balance to be paid in cash at closing.
3. **Title Evidence.** Seller agrees to share equally with Buyer the closing agent costs and the cost of a title insurance company's commitment and policy (Buyer's coverage, but not lender's coverage's) to insure the Property, showing a merchantable title vested in Seller, subject to easements, restrictions, covenants and other matters of record. The title evidence shall be presented to prospective Buyer on day of auction. If Seller fails to satisfy all such title requirements imposed on Seller pursuant to the title commitment, Buyer may, at Buyer's election, either: (a) cancel this agreement and receive a return of Buyer's earnest money and, in that event, this Agreement will be canceled and the parties will have no further obligations to each other; or (b) accept such title as Seller can deliver.
4. **Delivery.** A duly executed copy of this Agreement shall be delivered to the parties.
5. **Earnest Money.** Buyer hereby deposits with Security 1st Title upon the execution of this Agreement the sum of Twenty Three Thousand Two Hundred and No/100 (\$23,200.00) Dollars, earnest money, as a guarantee that the terms and conditions of this Agreement shall be fulfilled by Buyer, said deposit to be applied on the purchase price upon acceptance of title by Buyer and delivery of deed by Seller. If Buyer fails to fulfill its obligations under this Agreement, Seller may, at its option, cancel this Agreement and the earnest money deposit shall then become the property of Seller, not as a penalty, but as liquidated damages, or seek specific performance. Notwithstanding any of the other terms of this Agreement providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all parties to this Agreement.
6. **Proration.** All taxes and cash rent shall be adjusted and prorated through the date of closing. Taxes shall be prorated for the calendar year on the basis of taxes levied. If taxes have not been levied, then they will be prorated based upon taxes for the previous year, adjusted for the most recent mill levy, if known. The cash rent proration for Tract 3 will be based off \$2,260.00. Tract 3 is currently part of a larger tract.
7. **Closing Date.** Time is of the essence of this Agreement, and this transaction shall be consummated within thirty (30) days after the full execution of this contract.
8. **Possession.** Possession to be given to Buyer at closing, subject to current tenant's rights. See Exhibit "B" attached and made a part hereto.
9. **Agency Disclosure.** J. P. Weigand & Sons, Inc. (Weigand) is functioning as a transaction broker in this transaction with Terry Rupp, John Rupp, Bradley Tidemann and Grant Tidemann acting as designated agents of the Seller representing the Seller's interest.

10. **Representations and Recommendations.** Unless otherwise stated in writing, neither Weigand, its brokers or salespersons have made, on their own behalf, any representations or warranties, express or implied, with respect to any element of the Property, including, but not limited to, the legal sufficiency, legal effect, or tax consequences of this transaction. Any information furnished to either party or in any property condition report should be independently verified by that party before that party relies on such information. Buyer hereby agrees to hold Weigand, its brokers or salespersons harmless if Seller has failed to disclose any known defect or material fact regarding the Property. Buyer, again acknowledges that this is an "As Is" "Where Is" sale and that Buyer should not and is not relying on any information or lack thereof provided by Weigand and/or Seller.

Any representations made herein have been made by Weigand, its brokers or salespersons based on information supplied by sources believed to be reliable, and Weigand, its brokers or salespersons have not assumed any responsibility, directly or indirectly, with respect to any representations or warranties which have been made, if any. Since Weigand is acting as broker only, neither Weigand, its brokers or salespersons shall, under any circumstances, be held liable to Buyer for performance or lack of performance of any other terms or conditions of this Agreement, or for damages arising out of or relating to the contents of this Agreement over the performance or nonperformance of either of the parties to this Agreement. Weigand recommends that Buyer consult its attorneys and accountants before signing this Agreement in regard to the terms and conditions of this Agreement and that Seller satisfy himself/herself/itself as to the financial ability of Buyer to perform.

11. **Inspection.** Buyer has carefully examined the Property and the improvements located thereon and, in making the decision to buy the Property, Buyer is relying wholly and completely on Buyer's own judgment and the judgment of any contractors or inspectors Buyer may have selected. Buyer agrees that the purchase price was negotiated after consideration of all possible defects in the Property (including any environmental defects or problems), and Buyer purchases the Property in its present condition, "as is, where is" and without warranties or representations of any kind, concerning the condition, suitability, or value of the Property. Buyer acknowledges that neither Seller nor any broker or salesperson involved in this transaction is an expert at detecting or repairing physical defects in the Property.
12. **Environmental Conditions.** Buyer and Seller agree that Weigand and Weigand's brokers and salespersons do not have any expertise in evaluating the environmental condition of the Property and that Weigand and Weigand's brokers and salespersons have made no representation concerning environmental condition except as may be noted in writing as a part of this Agreement.
13. **Special Assessments.** Seller hereby discloses to Buyer, to the best of its knowledge, that the Property is not subject to existing special assessments. See Exhibit "C" attached and made a part hereto.
14. **Crop and Government Payments.** Said property is on a cash rent agreement and the current farm tenant will retain any crops and government payments during his tenancy.
15. **Mineral Interests.** Seller to convey to Buyer 100% of Seller's mineral interest, if any, in the subject property.
16. **Agricultural Tenant.** See Exhibit "B" attached and made a part hereto.
17. **Survey.** The subject property is being sold by legal description and a survey will not be provided by Seller. Buyer, at Buyer's sole election and cost, may have a survey performed on the subject property to determine the exact boundaries.
18. **Hunting & Fishing Leases.** Seller acknowledges that there are no current hunting or fishing leases on the subject property. Seller agrees not to enter into any lease agreements on the subject property prior to closing.
19. **1031 Tax Deferred Exchange.** A material part of the consideration to Buyer for purchasing the Property from Seller and Seller selling the Property to Buyer is that both Buyer and Seller have the option to qualify this transaction as part of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986.
20. **Approval of Seller.** The sale of the property is subject to the approval of the Seller.
21. **Where Is, As Is Condition.** Buyer is purchasing the subject property in its "where is, as is" condition.
22. **Acceptance or Rejection.** Seller shall have five (5) days from the receipt of this contract in which to accept or reject said contract. In the event said contract is not accepted, in writing, within said time frame, this contract shall be deemed null and void.
23. **Commission.** Seller agrees to pay J. P. Weigand & Sons, Inc. per a separate agreement.

- 24. **Authority to Bind.** Each individual who executes this Agreement on behalf of a party represents that he or she is duly authorized to execute this Agreement on behalf of that party and is operating within the scope of his or her authority
- 25. **Good Faith.** Each party to this Agreement shall use good faith and his or its best efforts to accomplish the actions provided for in this Agreement in due time and to cooperate with all other parties in doing so.
- 26. **Counterparts.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representative and assigns and may be executed in multiple counterparts, each of which shall be deemed, construed, and considered to be an original, but all of which constitute one and the same instrument.
- 27. **Agreement to Terms.** Buyer and Seller acknowledge that they have read the entire Agreement and that by signing below agree to all terms contained herein.
- 28. **Binding Effect.** This Agreement shall be binding upon Buyer, Seller, and their respective heirs, successors, and assigns.

BUYER: Donald and /or Janice E. Herman

SELLER:


 Donald Herman Date 4/26/14

By Direction of the City Council

 Carl Brewer, Mayor Date

 Date

 Date

ATTEST:

 Karen Sublett, City Clerk

APPROVED AS TO FORM:

 Gary E. Rebenstorf, Director of Law

EXHIBIT "A"



EXHIBIT "B"

Apr 08 2014 12:00PM HP LASERJET FAX

p. 2

TENANT'S AGREEMENT

Whereas the City of Wichita are owners of the property described herein, and they have commissioned J.P. Weigand and Sons, Inc. to sell same at public auction the date of April 26th, 2014.

I, Bob Harder, being in possession of the land situated in Sedgwick County, Kansas and legally described as:

Tract 1: Northeast $\frac{1}{4}$, except a tract, in Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 151.12 acres more or less.

Possession of Tract 1 will be after the 2014 fall harvest. The land will be planted to corn.

Tract 2: East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 79 acres more or less.

Possession of Tract 2 will be after the harvest of the oats and bailing of the straw on the tillable acres. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the entire tract should be around the first part of August but no later than September 1st, 2014.

Tract 3: West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 80 acres more or less.

Possession of Tract 3 will be as follows. Possession of the acres planted to corn will be after the 2014 fall harvest. Possession of the acres planted to oats will be after the harvest of the oats and the bailing of the straw. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the acres planted to oats and the meadow should be around the first part of August but no later than September 1st, 2014.

Tract 4: West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$, except a tract, in Section 36, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 78.41 acres more or less.

Possession of Tract 4 will be as follows. The tillable acres planted to wheat will be after the 2014 wheat harvest. Possession of the meadow will be after the July 2014 bailing of the hay.

Farmers' Tenant's Agreement

Please note if you are desirous of continuing tenancy with an investor/purchaser; if so, you will be recommended. Yes, I would be interested in
forming the listed trusts.

I further hereby grant to J.P. Weigand and Sons, Inc. and/or its representatives full right of entry in and upon said premises.

Dated this 8th day of April, 20104

Robert L. Weigand
Signature

~~Tenant's Agreement~~

EXHIBIT "C"

3/18/2014

Property Detail



Sedgwick County...
working for you

www.sedgwickcounty.org

Tracts 2 + 3

Property Detail Information

SE1/4 SEC 25-25-2E

\$ PAY TAXES [View Valuation Notice](#) Current year Valuation Notices are available after March 1st.

Legal Description: SE1/4 SEC 25-25-2E
 Property Owner Name: CITY OF WICHITA
 Mailing Address: 455 N MAIN WICHITA KS 67202-1615
 Geo Code: LI 00152 PIN: 00276150 AIN: 017250110000100B
 Tax Unit: 1301 345 LINCOLN TWP U-206-WRW LI Land Use: 9010 Farming/ranch land (no improvements)

Market Land Square Feet: N/A Total Acres: 158.07
 2014 Appraisal Value: \$5,980.00 2014 Assessment Value: \$1,794.00

Annual Values

Year	Category	Value	Assessment	Change	% Change
2014	Agricultural	\$5,980	\$0	\$5,980	14%
2013	Agricultural	\$5,260	\$0	\$5,260	7%
2012	Agricultural	\$4,900	\$0	\$4,900	-1%
2011	Agricultural	\$4,930	\$0	\$4,930	-7%
2010	Agricultural	\$5,280	\$0	\$5,280	-19%
2009	Agricultural	\$6,490	\$0	\$6,490	-24%
2008	Agricultural	\$8,510	\$0	\$8,510	-18%
2007	Agricultural	\$10,400	\$0	\$10,400	-17%
2006	Agricultural	\$12,490	\$0	\$12,490	-9%
2005	Agricultural	\$13,710	\$0	\$13,710	0%

Annual Values

Year	Category	Value	Assessment	Change	% Change
2014	Agricultural	\$1,794	\$0	\$1,794	14%
2013	Agricultural	\$1,578	\$0	\$1,578	7%
2012	Agricultural	\$1,470	\$0	\$1,470	-1%
2011	Agricultural	\$1,479	\$0	\$1,479	-7%
2010	Agricultural	\$1,584	\$0	\$1,584	-19%
2009	Agricultural	\$1,947	\$0	\$1,947	-24%
2008	Agricultural	\$2,553	\$0	\$2,553	-18%
2007	Agricultural	\$3,120	\$0	\$3,120	-17%
2006	Agricultural	\$3,747	\$0	\$3,747	-9%
2005	Agricultural	\$4,113	\$0	\$4,113	0%

<https://scc.sedgwickcounty.org/taxinfo/bapp/PropertyDetail.aspx?gis=Y&ControlNum=00276150>

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**REAL ESTATE PURCHASE CONTRACT
TRACT 4**

THIS AGREEMENT (the Agreement) is made and entered into between The City of Wichita (Seller, whether one or more) and Harder Farms, Inc. (Buyer, whether one or more). Seller and Buyer agree as follows:

1. **Property.** The Seller agrees to sell and convey to Buyer by general warranty deed the following described real property (the Property):

The West Half of the Northeast Quarter of Section 36, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part described as beginning at the extreme Northwest corner of said West Half of the Northeast Quarter of Section 36, Township 25 South, Range 2 East; thence South along the West side of said West Half of the Northeast Quarter a distance of 240 feet; thence East 440 feet; thence North 240 feet; thence West 440 feet to the point of beginning. Said property contains 78.41 acres more or less.

The legal description for the Property is to be confirmed by the title evidence required to be provided by Seller. See Exhibit "A" attached hereto and made a part hereof, for a visual description of the Property.

2. **Purchase Price.** Buyer agrees to purchase, and to pay to Seller, as consideration for the conveyance of the Property, the sum of Two Hundred Fifty Thousand Nine Hundred Twelve + 00/100 (\$250,912.00) Dollars in the following manner: 10% down as earnest money in the amount of \$ 25,091.20 with the remaining balance to be paid in cash at closing.

3. **Title Evidence.** Seller agrees to share equally with Buyer the closing agent costs and the cost of a title insurance company's commitment and policy (Buyer's coverage, but not lender's coverage's) to insure the Property, showing a merchantable title vested in Seller, subject to easements, restrictions, covenants and other matters of record. The title evidence shall be presented to prospective Buyer on day of auction. If Seller fails to satisfy all such title requirements imposed on Seller pursuant to the title commitment, Buyer may, at Buyer's election, either: (a) cancel this agreement and receive a return of Buyer's earnest money and, in that event, this Agreement will be canceled and the parties will have no further obligations to each other; or (b) accept such title as Seller can deliver.

4. **Delivery.** A duly executed copy of this Agreement shall be delivered to the parties.

5. **Earnest Money.** Buyer hereby deposits with Security 1st Title upon the execution of this Agreement the sum of \$25,091.20 Dollars, earnest money, as a guarantee that the terms and conditions of this Agreement shall be fulfilled by Buyer, said deposit to be applied on the purchase price upon acceptance of title by Buyer and delivery of deed by Seller. If Buyer fails to fulfill its obligations under this Agreement, Seller may, at its option, cancel this Agreement and the earnest money deposit shall then become the property of Seller, not as a penalty, but as liquidated damages, or seek specific performance. Notwithstanding any of the other terms of this Agreement providing for forfeiture or refund of the earnest money deposit, the parties understand that applicable Kansas real estate laws prohibit the escrow agent from distributing the earnest money, once deposited, without the consent of all parties to this Agreement.

6. **Proration.** All taxes and cash rent shall be adjusted and prorated through the date of closing. Taxes shall be prorated for the calendar year on the basis of taxes levied. If taxes have not been levied, then they will be prorated based upon taxes for the previous year, adjusted for the most recent mill levy, if known. The cash rent proration for Tract 4 will be based off \$2,209.75.

7. **Closing Date.** Time is of the essence of this Agreement, and this transaction shall be consummated within thirty (30) days after the full execution of this contract.

8. **Possession.** Possession to be given to Buyer at closing, subject to current tenant's rights. See Exhibit "B" attached and made a part hereto.

9. **Agency Disclosure.** J. P. Weigand & Sons, Inc. (Weigand) is functioning as a transaction broker in this transaction with Terry Rupp, John Rupp, Bradley Tidemann and Grant Tidemann acting as designated agents of the Seller representing the Seller's interest.

10. **Representations and Recommendations.** Unless otherwise stated in writing, neither Weigand, its brokers or salespersons have made, on their own behalf, any representations or warranties, express or implied, with respect to any element of the Property, including, but not limited to, the legal sufficiency, legal effect, or tax consequences of this transaction. Any information furnished to either party or in any property condition report should be independently verified by that party before that party relies on such information. Buyer hereby agrees to hold Weigand, its brokers or salespersons harmless if Seller has failed to disclose any known defect or material fact regarding the Property. Buyer, again acknowledges that this is an "As Is" "Where Is" sale and that Buyer should not and is not relying on any information or lack thereof provided by Weigand and/or Seller.

Any representations made herein have been made by Weigand, its brokers or salespersons based on information supplied by sources believed to be reliable, and Weigand, its brokers or salespersons have not assumed any responsibility, directly or indirectly, with respect to any representations or warranties which have been made, if any. Since Weigand is acting as broker only, neither Weigand, its brokers or salespersons shall, under any circumstances, be held liable to Buyer for performance or lack of performance of any other terms or conditions of this Agreement, or for damages arising out of or relating to the contents of this Agreement over the performance or nonperformance of either of the parties to this Agreement. Weigand recommends that Buyer consult its attorneys and accountants before signing this Agreement in regard to the terms and conditions of this Agreement and that Seller satisfy himself/herself/itself as to the financial ability of Buyer to perform.

11. **Inspection.** Buyer has carefully examined the Property and the improvements located thereon and, in making the decision to buy the Property, Buyer is relying wholly and completely on Buyer's own judgment and the judgment of any contractors or inspectors Buyer may have selected. Buyer agrees that the purchase price was negotiated after consideration of all possible defects in the Property (including any environmental defects or problems), and Buyer purchases the Property in its present condition, "as is, where is" and without warranties or representations of any kind, concerning the condition, suitability, or value of the Property. Buyer acknowledges that neither Seller nor any broker or salesperson involved in this transaction is an expert at detecting or repairing physical defects in the Property.
12. **Environmental Conditions.** Buyer and Seller agree that Weigand and Weigand's brokers and salespersons do not have any expertise in evaluating the environmental condition of the Property and that Weigand and Weigand's brokers and salespersons have made no representation concerning environmental condition except as may be noted in writing as a part of this Agreement.
13. **Special Assessments.** Seller hereby discloses to Buyer, to the best of its knowledge, that the Property is subject to existing special assessments. See Exhibit "C" attached and made a part hereto.
14. **Crop and Government Payments.** Said property is on a cash rent agreement and the current farm tenant will retain any crops and government payments during his tenancy.
15. **Mineral Interests.** Seller to convey to Buyer 100% of Seller's mineral interest, if any, in the subject property.
16. **Agricultural Tenant.** See Exhibit "B" attached and made a part hereto.
17. **Survey.** The subject property is being sold by legal description and a survey will not be provided by Seller. Buyer, at Buyer's sole election and cost, may have a survey performed on the subject property to determine the exact boundaries.
18. **Hunting & Fishing Leases.** Seller acknowledges that there are no current hunting or fishing leases on the subject property. Seller agrees not to enter into any lease agreements on the subject property prior to closing.
19. **1031 Tax Deferred Exchange.** A material part of the consideration to Buyer for purchasing the Property from Seller and Seller selling the Property to Buyer is that both Buyer and Seller have the option to qualify this transaction as part of a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986.
20. **Approval of Seller.** The sale of the property is subject to the approval of the Seller.
21. **Where Is, As Is Condition.** Buyer is purchasing the subject property in its "where is, as is" condition.
22. **Acceptance or Rejection.** Seller shall have five (5) days from the receipt of this contract in which to accept or reject said contract. In the event said contract is not accepted, in writing, within said time frame, this contract shall be deemed null and void.
23. **Commission.** Seller agrees to pay J. P. Weigand & Sons, Inc. per a separate agreement.

- 24. **Authority to Bind.** Each individual who executes this Agreement on behalf of a party represents that he or she is duly authorized to execute this Agreement on behalf of that party and is operating within the scope of his or her authority
- 25. **Good Faith.** Each party to this Agreement shall use good faith and his or its best efforts to accomplish the actions provided for in this Agreement in due time and to cooperate with all other parties in doing so.
- 26. **Counterparts.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representative and assigns and may be executed in multiple counterparts, each of which shall be deemed, construed, and considered to be an original, but all of which constitute one and the same instrument.
- 27. **Agreement to Terms.** Buyer and Seller acknowledge that they have read the entire Agreement and that by signing below agree to all terms contained herein.
- 28. **Binding Effect.** This Agreement shall be binding upon Buyer, Seller, and their respective heirs, successors, and assigns.

BUYER:

HARDER FARMS, INC
 Richard D. Harder 4-26-14

 Date

SELLER:

By Direction of the City Council

 Carl Brewer, Mayor Date

ATTEST:

 Karen Sublett, City Clerk

APPROVED AS TO FORM:

 Gary E. Rebenstorf, Director of Law

EXHIBIT "A"



EXHIBIT "B"

Apr 08 2014 12:00PM HP LASERJET FAX

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TENANT'S AGREEMENT

Whereas the City of Wichita are owners of the property described herein, and they have commissioned J.P. Weigand and Sons, Inc. to sell same at public auction the date of April 25th, 2014.

I, Bob Harder, being in possession of the land situated in Sedgwick County, Kansas and legally described as:

Tract 1: Northeast $\frac{1}{4}$, except a tract, in Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 151.12 acres more or less.

Possession of Tract 1 will be after the 2014 fall harvest. The land will be planted to corn.

Tract 2: East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 79 acres more or less.

Possession of Tract 2 will be after the harvest of the oats and bailing of the straw on the tillable acres. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the entire tract should be around the first part of August but no later than September 1st, 2014.

Tract 3: West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 25, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 80 acres more or less.

Possession of Tract 3 will be as follows. Possession of the acres planted to corn will be after the 2014 fall harvest. Possession of the acres planted to oats will be after the harvest of the oats and the bailing of the straw. Possession of the meadow will be after the July 2014 bailing of the hay. The possession for the acres planted to oats and the meadow should be around the first part of August but no later than September 1st, 2014.

Tract 4: West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$, except a tract, in Section 36, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas and being 78.41 acres more or less.

Possession of Tract 4 will be as follows. The tillable acres planted to wheat will be after the 2014 wheat harvest. Possession of the meadow will be after the July 2014 bailing of the hay.

Formal Tenant's Agreement

Please note if you are desirous of continuing tenancy with an investor/purchaser, if so, you will be recommended. Yes, I would be interested in

possessing the listed tracts.

I further hereby grant to J.P. Weigand and Sons, Inc. and/or its representatives full right of entry in and upon said premises.

Dated this 8th day of April, 20104

Robert L. Borden
Signature

Escrow/Tenant's Agreement

EXHIBIT "C"

3/18/2014

Property Detail



Sedgwick County...
working for you

www.sedgwickcounty.org

Tract 4

Property Detail Information

W 1/2 NE 1/4 EXC W 440 FT N 240 FT SEC 36-25-2E

\$ PAY TAXES [View Valuation Notice](#) Current year Valuation Notices are available after March 1st.

Legal Description: W 1/2 NE 1/4 EXC W 440 FT N 240 FT SEC 36-25-2E
 Property Owner Name: CITY OF WICHITA
 Mailing Address: 455 N MAIN WICHITA KS 67202-1615
 Geo Code: LJ 00208 PIN: 00276240 AIN: 017360120000100
 Tax Unit: 1304 355 LINCOLN TWP U-375-WRW LJ Land Use: 9050 Farming/ranching operation (with improve

Market Land Square Feet: 39,204 Total Acres: 78.41
 2014 Appraisal Value: \$21,260.00 2014 Assessment Value: \$3,887.00

2014 Values

Year	Category	Amount	Appraisal Amt	Total	Percent Paid
2014	Agricultural	\$6,790	\$1,370	\$8,160	10%
2014	Residential	\$13,100	\$0	\$13,100	0%
2013	Agricultural	\$6,140	\$1,290	\$7,430	5%
2013	Vacant	\$15,400	\$0	\$15,400	0%
2012	Agricultural	\$5,760	\$1,330	\$7,090	-4%
2012	Vacant	\$15,400	\$0	\$15,400	103%
2011	Agricultural	\$5,560	\$1,280	\$6,840	-2%
2011	Vacant	\$7,600	\$0	\$7,600	0%
2010	Agricultural	\$5,710	\$1,270	\$6,980	-8%
2010	Vacant	\$7,600	\$0	\$7,600	0%
2009	Agricultural	\$6,320	\$1,280	\$7,600	-11%
2009	Vacant	\$7,600	\$0	\$7,600	0%
2008	Agricultural	\$7,260	\$1,270	\$8,530	-8%
2007	Agricultural	\$8,010	\$1,250	\$9,260	-7%
2006	Agricultural	\$8,760	\$1,190	\$9,950	-3%
2005	Agricultural	\$9,090	\$1,130	\$10,220	0%
2005	Farmstead	\$6,300	\$150	\$6,450	0%

2014 Values

Year	Category	Amount	Appraisal Amt	Total	Percent Paid
2014	Agricultural	\$2,037	\$343	\$2,380	10%
2014	Residential	\$1,507	\$0	\$1,507	0%
2013	Agricultural	\$1,842	\$323	\$2,165	5%

https://sdc.sedgwickcounty.org/axinlovebopp/PropertyDetail.aspx?gis=Y&ControlNum=00276240

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3/18/2014

Property Detail

2013	Vacant	\$1,848	\$0	\$1,848	0%
2012	Agricultural	\$1,728	\$333	\$2,061	4%
2012	Vacant	\$1,848	\$0	\$1,848	103%
2011	Agricultural	\$1,668	\$320	\$1,988	-2%
2011	Vacant	\$912	\$0	\$912	0%
2010	Agricultural	\$1,713	\$318	\$2,031	-8%
2010	Vacant	\$912	\$0	\$912	0%
2009	Agricultural	\$1,896	\$320	\$2,216	-11%
2009	Vacant	\$912	\$0	\$912	0%
2008	Agricultural	\$2,178	\$318	\$2,496	-8%
2007	Agricultural	\$2,403	\$313	\$2,716	-7%
2006	Agricultural	\$2,628	\$298	\$2,926	-3%
2005	Agricultural	\$2,727	\$283	\$3,010	0%
2005	Farmstead	\$725	\$17	\$742	0%

2639 F COUNTY SOLID WASTE SOLID WASTE USER FEE		\$0.00	\$0.00	\$6.48
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- 0201 COUNTY
- 1108 COUNTY FIRE DIST NO BONDS
- 0431 LINCOLN TOWNSHIP
- 9999 MV Average Levy for ST
- 1401 SOUTH CENTRAL KANSAS LIBRARY SYS
- 0101 STATE
- 0616 USD 375
- 0616 USD 375 SG
- 0731 USD 375 BOND
- 1703 WHITEWATER RIVER WATERSHED NO.22

Year	Assessed Value	Market Value								
2013	3996841	125.6819	\$475.93	\$6.48	\$0.00	\$0.00	\$482.41	(\$241.21)	\$241.20	
2012	4086809	125.6819	\$28.44	\$0.00	\$0.00	\$0.00	\$28.44	(\$28.44)	\$0.00	
2012	3245433	118.7188	\$464.07	\$5.70	\$0.00	\$0.00	\$469.77	(\$469.77)	\$0.00	
2011	2433330	117.0416	\$339.40	\$5.70	\$0.00	\$0.00	\$345.10	(\$345.10)	\$0.00	
2010	1749359	114.6671	\$337.43	\$5.70	\$0.00	\$0.00	\$343.13	(\$343.13)	\$0.00	
2009	764799	112.753	\$352.69	\$4.04	\$0.00	\$0.00	\$356.73	(\$356.73)	\$0.00	
2008	764798	113.171	\$282.47	\$0.00	\$0.00	\$0.00	\$282.47	(\$282.47)	\$0.00	
2007	764797	112.492	\$305.53	\$0.00	\$0.00	\$0.00	\$305.53	(\$305.53)	\$0.00	
2006	764796	112.03	\$327.80	\$0.00	\$0.00	\$0.00	\$327.80	(\$327.80)	\$0.00	

<https://ssc.sedgwickcounty.org/taxinfo/bapp/PropertyDetail.aspx?gis=Y&ControlNum=00276240>

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3/18/2014

Property Detail

2005	764795	110.935	5401.39	\$3.57	\$0.00	\$0.00	5404.96	(\$404.96)	\$0.00
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<https://scc.sedgewickcounty.org/taxinfo/webapp/PropertyDetail.aspx?gis=Y&ControlNum=00276240>

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Second Reading Ordinances for May 13, 2014 (first read on May 6, 2014)

A. Public Hearing on Proposed Assessments for fifteen (15) Praving Projects, fifteen (15) Water Projects, fifteen (15) Sewer Projects, and eleven (11) Storm Sewer Projects in the July, 2014 Bond Sale Series 814. (Districts I, II, IV, and V)

(490-205/472-84343)

ORDINANCE NO. 49-688

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON YOSEMITE, WESTGATE, GREENFIELD, GREENFIELD CIRCLE INCLUDING CUL-DE-SAC & SIDEWALK, TO SERVE SOUTHERN RIDGE 4TH ADDITION (SOUTH OF PAWNEE, WEST OF MAIZE).

(490-294/472-84522)

ORDINANCE NO. 49-689

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF IMPROVING BURNING TREE COURT & ROCKHILL TO & INCLUDING CUL-DE-SAC, TO SERVE KRUG SOUTH ADDITION (SOUTH OF 21ST, WEST OF 143RD STREET EAST).

(490-299/472-84654)

ORDINANCE NO. 49-690

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF IMPROVING 127TH STREET EAST, TO SERVE WOODS NORTH ADDITION (SOUTH OF 29TH STREET NORTH, WEST OF 127TH STREET EAST).

(490-304/472-84867)

ORDINANCE NO. 49-691

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON SHORELINE, TO SERVE EMERALD BAY ESTATES 2ND ADDITION (NORTH OF 21ST, WEST OF WEST STREET).

(490-282/472-84592)

ORDINANCE NO. 49-692

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF IMPROVING GRAYSTONE, SUNDANCE, RIDGEHURST, TERHUNE & SIDEWALK, TO SERVE STONEBRIDGE 2ND ADDITION (NORTH OF 13TH, WEST OF 159TH ST. EAST).

(490-273/472-84905)

ORDINANCE NO. 49-693

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON THE N-S ALLEY BETWEEN CLEVELAND & INDIANA, TO SERVE MATHEWSON'S 3RD ADDITION (SOUTH LINE OF 2ND STREET NORTH TO THE NORTH LINE OF 1ST STREET NORTH).

(490-285/472-85001)

ORDINANCE NO. 49-694

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON WESTON STREET & HAVENHURST, TO SERVE HAMPTON SQUARE SECOND ADDITION (NORTH OF 37TH STREET NORTH, WEST OF MAIZE).

(490-295/472-85016)

ORDINANCE NO. 49-695

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING A NEW MEDIAN & DRIVE APPROACH MODIFICATION TO PROVIDE FOR INGRESS & EGRESS TO & FROM THE SITE, TO & FROM NORTHBOUND & SOUTHBOUND TOWNE EAST MALL DRIVE, TO SERVE ROCKWOOD SOUTH THIRD ADDITION (NORTH OF KELLOGG, WEST OF ROCK).

(490-298/472-85046)

ORDINANCE NO. 49-696

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON WOODRIDGE, WOODRIDGE COURT, 27TH COURT NORTH, TO AND INCLUDING THE CUL-DE-SAC & SIDEWALK, TO SERVE WOODS NORTH 3RD ADDITION (SOUTH OF 29TH STREET NORTH, WEST OF 127TH STREET EAST).

(490-302/472-85056)

ORDINANCE NO. 49-697

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON WOODDALE STREET, TO SERVE KRUG SOUTH ADDITION (SOUTH OF 21ST, WEST OF 143RD).

(490-303/472-85061)

ORDINANCE NO. 49-698

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF REMOVE AN ENTRANCE ON 21ST STREET SERVING REMINGTON PLACE ADDITION AND CONSTRUCTING A NEW ENTRANCE SERVING SAID DEVELOPMENT, TO SERVE REMINGTON PLACE ADDITION (SOUTH OF 21ST, EAST OF WEBB).

(490-309/472-85072)

ORDINANCE NO. 49-699

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTING PAVEMENT ON SHORELINE, TO SERVE EMERALD BAY ESTATES 2ND ADDITION (NORTH OF 21ST, WEST OF WEST STREET).

(490-184/472-84571)

ORDINANCE NO. 49-700

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF IMPROVING VICTOR, RUTAN AND SECOND STREET, TO SERVE PARKSTONE ADDITION (NORTH OF DOUGLAS, EAST OF HILLSIDE).

(490-292/472-85039)

ORDINANCE NO. 49-701

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF LIGHTING, LANDSCAPING, IRRIGATION AND ASSOCIATED IMPROVEMENTS, TO SERVE BERKELY SQUARE FIRST ADDITION (NORTH OF 13TH, WEST OF GREENWICH).

(490-293/472-85040)

ORDINANCE NO. 49-702

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF LIGHTING, LANDSCAPING, IRRIGATION AND ASSOCIATED IMPROVEMENTS, TO SERVE GREENWICH OFFICE PARK SECOND ADDITION & BERKELEY SQUARE FIRST ADDITION (NORTH OF 13TH, WEST OF GREENWICH).

(480-027/468-84322)

ORDINANCE NO. 49-718

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 8, MAIN 14, FOUR MILE CREEK SEWER TO SERVE KRUG SOUTH ADDITION & UNPLATTED COMMERCIAL TRACT 1, (SOUTH OF 21ST, WEST OF 143RD STREET EAST).

(480-036/468-84638)

ORDINANCE NO. 49-719

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 3, MAIN 23, SOUTHWEST INTERCEPTOR SEWER TO SERVE EMERALD BAY ESTATES 2ND ADDITION, (NORTH OF 21ST, WEST OF WEST STREET).

(480-030/468-84735)

ORDINANCE NO. 49-720

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 169, WAR INDUSTRIES SEWER TO SERVE STONEY POINTE ADDITION, (EAST OF GREENWICH, SOUTH OF 29TH ST. NORTH).

(480-014/468-84742)

ORDINANCE NO. 49-721

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 173, WAR INDUSTRIES SEWER TO SERVE GREENWICH BUSINESS CENTER ADDITION, (EAST OF GREENWICH, SOUTH OF 29TH ST. NORTH).

(480-115/468-84743)

ORDINANCE NO. 49-722

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 174, WAR INDUSTRIES SEWER TO SERVE GREENWICH BUSINESS CENTER ADDITION, (EAST OF GREENWICH, SOUTH OF 29TH ST. NORTH).

(480-018/468-84764)

ORDINANCE NO. 49-723

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 10, MAIN 14, FOUR MILE CREEK TO SERVE REED'S COVE MEDICAL CAMPUS ADDITION, (EAST OF 127TH EAST, SOUTH OF 21ST).

(480-032/468-84786)

ORDINANCE NO. 49-724

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 59, MAIN 24, WAR INDUSTRIES SEWER TO SERVE REMINGTON PLACE, (SOUTH OF 21ST, EAST OF WEBB).

(480-022/468-84813)

ORDINANCE NO. 49-725

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 538, SOUTHWEST INTERCEPTOR SEWER TO SERVE PEARSON FARMS 3RD ADDITION, (SOUTH OF 21ST ST. NORTH, WEST OF MAIZE).

(480-023/468-84814)

ORDINANCE NO. 49-726

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 4, MAIN 21, FOUR MILE CREEK SEWER TO SERVE SIERRA HILLS 2ND ADDITION, (NORTH OF PAWNEE, WEST OF 143RD ST. EAST).

(480-028/468-84818)

ORDINANCE NO. 49-727

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 13, MAIN 16, FOUR MILE CREEK TO SERVE GLENVIEW ADDITION, (SOUTH OF 21ST ST. NORTH, WEST OF GREENWICH).

(480-029/468-84821)

ORDINANCE NO. 49-728

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 429, FOUR MILE CREEK TO SERVE WOODS NORTH 3RD ADDITION, (SOUTH OF 29TH ST. N; WEST OF 127TH ST. EAST).

(480034/468-84847)

ORDINANCE NO. 49-729

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 11, MAIN 14, FOUR MILE CREEK SEWER TO SERVE KRUG SOUTH SECOND ADDITION, (SOUTH OF 21ST ST. NORTH, WEST OF 143RD ST. EAST).

(480-035/468-84865)

ORDINANCE NO. 49-730

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 12, MAIN 14, FOUR MILE CREEK TO SERVE LAKESIDE ACRES FIRST ADDITION, (SOUTH OF 21ST ST. N; WEST OF 127TH ST. EAST).

(480-024/468-84820)

ORDINANCE NO. 49-731

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 155, MAIN 4, SANITARY SEWER #23 TO SERVE JONES PARK ADDITION, (NORTH OF 29TH ST. NORTH, WEST BROADWAY).

(480-031/468-84840)

ORDINANCE NO. 49-732

AN ORDINANCE LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND IN THE CITY OF WICHITA, KANSAS, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF CONSTRUCTION OF LATERAL 171, SANITARY SEWER #22 TO SERVE UNPLATTED TRACTS, (EAST OF AMIDON, NORTH OF 29TH ST. NORTH).

(485-396/468-84326)

ORDINANCE NO. 49-733

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWS No. 629 TO SERVE KRUG SOUTH ADDITION, (South of 21st, West of 143rd Street East).

(485-390/468-84762)

ORDINANCE NO. 49-734

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 383 TO SERVE HAMPTON SQUARE, PRAIRIE POINTE ADDITIONS, (North of 37th Street North, West of Maize).

(485-391/468-84773)

ORDINANCE NO. 49-735

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWS No. 662 TO SERVE HAMPTON SQUARE SECOND ADDITION, (North of 27th Street North West of Maize).

(485-401/468-84775)

ORDINANCE NO. 49-736

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 379 TO SERVE KISER WEST SECOND ADDITION, (South of 13th, West of Greenwich).

(485-403/468-84787)

ORDINANCE NO. 49-737

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 381 TO SERVE REMINGTON PLACE, (South of 21st, East of Webb).

(485-397/468-84815)

ORDINANCE NO. 49-738

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 384 TO SERVE SIERRA HILLS SECOND ADDITION, (North of Pawnee, West of 143rd Street East).

(485-400/468-84819)

ORDINANCE NO. 49-739

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWS No. 663 TO SERVE GLENVIEW ADDITION, (South of 21st Street North, West of Greenwich).

(485-399/468-84833)

ORDINANCE NO. 49-740

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWS No. 667 TO SERVE KRUG SOUTH ADDITION, (South of 21st, West of 143rd Street East).

(485-402/468-84328)

ORDINANCE NO. 49-741

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 321 TO SERVE UNPLATTED COMMERCIAL TRACT 1, (South of 21st Street North, West of 143rd Street East).

(485-380/468-84636)

ORDINANCE NO. 49-742

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD. No. 361 TO SERVE BIG SLOUGH SOUTH, (South of 47th Street South, West of I-135 Freeway).

(485-404/468-84845)

ORDINANCE NO. 49-743

An Ordinance levying assessments on lots, pieces, and parcels of land in the City of Wichita, Kansas, for the purpose of paying a portion of the cost of construction of SWD No. 382 TO SERVE EMERALD BAY ESTATES 2ND ADDITION, (North of 21st St North, West of West Street).

B. Public Hearing and Tax Exemption Request, ZTM, Inc. (District III)

ORDINANCE NO. 49-744

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF ZTM, INC., SO EXEMPTED.

C. Tourism Business Improvement District.

ORDINANCE NO. 49-745

AN ORDINANCE LEVYING AN ANNUAL SERVICE FEE UPON CERTAIN HOTELS
(485-396/468-84326)

D. SUB2010-00032 Plat of Sierra Pointe Addition located on the Southwest Corner of Pawnee and 127th Street East. (District V)

ORDINANCE NO. 49-747

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.

E. SUB2011-00055 Platt of Fox Ridge Plaza Addition located on the South Side of 37th Street North, on the East Side of Maize Road. (District V)

ORDINANCE NO. 49-748

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.

F. Agreement between Idea Tek d/b/a/ Wildflower Communications, Inc. and City of Wichita for Installation of Fiber Optic and Small Cell Antennas for Wireless Communications.

ORDINANCE NO. 49-749

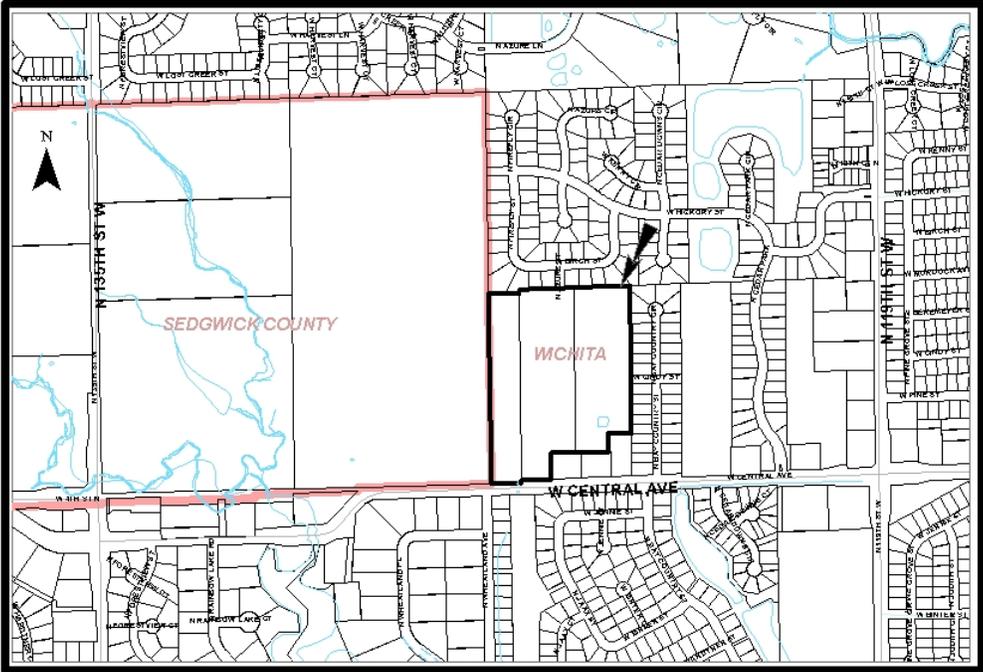
AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, GRANTING TO WILDFLOWER TELECOMMUNICATIONS, LLC, ITS SUCCESSORS AND ASSIGNS, A DISTRIBUTED ANTENNA SYSTEMS FACILITY FRANCHISE AND PRESCRIBING THE TERMS OF SAID GRANT AND RELATING THERETO.

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: SUB2014-00009 -- Plat of Castlegate Addition located on the north side of Central, west of 119th Street West (District V)
INITIATED BY: Metropolitan Area Planning Department
AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)



Background: The site, consisting of 87 lots on 25.24 acres, is located within Wichita. A zone change (ZON2014-00001) has been approved from SF-5 Single-family Residential to MF-18 Multi-family Residential for Lot 1, Block A.

Analysis: Sewer, water, paving and drainage improvements will be constructed by private project. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserves being platted. The applicant has provided a restrictive covenant restricting the use of a 15-foot street, drainage and utility easement adjoining a narrow street right-of-way.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Financial Considerations: There are no financial considerations associated with the plat.

Legal Considerations: The Law Department has reviewed and approved the Restrictive Covenants as to form and the documents will be recorded with the Register of Deeds.

The Law Department has reviewed and approved the Ordinance as to form.

Recommendations/Actions: It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and place the Ordinance on first reading. Publication of the Ordinance should be withheld until the plat is recorded with the Register of Deeds.

Attachments: Restrictive Covenants.
Ordinance.

(OCA150004)

Published in The Wichita Eagle on May 23, 2014

ORDINANCE NO. 49-753

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. ZON2014-00001

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

Lot 1, Block A, Castlegate Addition, Wichita, Sedgwick County, Kansas.

Generally located on the north side of Central, west of 119th Street West.

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 20th day of May, 2014.

ATTEST:

Karen Sublett, City Clerk

Carl Brewer, Mayor

(SEAL)

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law

COPY

RESTRICTIVE COVENANT

THIS DECLARATION made this 21st day of April, 2014, by Green Vision Developer, L.L.C., a Kansas Limited Liability Company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

CASTLEGATE ADDITION

Lots 1 through 48, Block A
Lots 1 through 15, Block B
Lots 1 through 24, Block C

WHEREAS, the Declarant is desirous in connection therewith that various restrictions be placed of record on the 15 foot street, drainage and utility easement.

NOW, THEREFORE, Declarant hereby declares and covenants that retaining walls, change of grade, fences, earth berms, and mass plantings shall be prohibited within the said easement. Furthermore, the Declarant hereby agrees that any planting within the said easement shall be reviewed by the City Forestry Division, prior to installation.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land, and is binding on all successors in title to all Lots, as platted in said Castlegate Addition, Wichita, Sedgwick County, Kansas.

EXECUTED the date and year first above written.

Green Vision Developer, L.L.C.

By: Randall E. Ketzner
Randall E. Ketzner, Member

↓
x

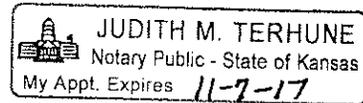
STATE OF KANSAS)
SEDGWICK COUNTY) SS:

BE IT REMEMBERED, that on this 21st day of April, 2014, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Randall E. Ketzner as Member of Green Vision Developer, L.L.C., a Kansas limited liability company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

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

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-17)



Approved as to form:

Gary E. Rebenstorf, Director of Law

COPY

RESTRICTIVE COVENANT

THIS DECLARATION made this 21st day of April, 2014, by Green Vision Developer, L.L.C., a Kansas Limited Liability Company, hereinafter called "Declarant",

WITNESSETH

WHEREAS, Declarant is the owner of the following described property:

CASTLEGATE ADDITION

Lots 1 through 48, Block A

Lots 1 through 15, Block B

Lots 1 through 24, Block C

WHEREAS, Declarant is desirous in connection therewith that various provisions for the maintenance and responsibility for the maintenance be placed of record for Reserves "A", "B", "C", "D", "E", "F", and "G", Castlegate Addition, Wichita, Sedgwick County, Kansas.

NOW, THEREFORE, Declarant hereby declares and covenants:

1. That Reserve "A" is hereby reserved for open space, landscaping, streets, entry monuments, drainage purposes, and utilities.

Reserve "B" is hereby reserved for open space, landscaping, entry monuments, berms, drainage purposes, utilities, and streets as confined to easement.

Reserve "C" is hereby reserved for open space, landscaping, entry monuments, berms, public sidewalks, drainage purposes, utilities, and streets as confined to easement.

Reserves "D" and "E" are hereby reserved for open space, landscaping, drainage purposes, berms, Homeowners Association maintenance and storage facilities, utilities as confined to easements, streets as confined to easement, and electric transmission lines and related appurtenances as confined to easement.

Reserve "F" is hereby reserved for open space, landscaping, berms, lakes, public sidewalks, drainage purposes, utilities as confined to easement, parking as confined to easement, and streets as confined to easement. There shall be no building setback requirements in said Reserve "F" along any public rights-of-way. The parking easement within said Reserve "F" shall be used for residential parking exclusively. No obstructions shall be constructed or placed on or within the parking easements in said Reserve "F".

Reserve "G" is reserved for open space, landscaping, drainage purposes, berms, gazebos, fences, public sidewalks, playgrounds, parking, a clubhouse and related appurtenances, swimming pools and related appurtenances, utilities as confined to easement, and streets as confined to easement. There shall be no building setback requirements in said Reserve "G" along any public rights-of way. The public shall not bear the cost of any repair or replacement of improvements within said Reserves "A", "B", "C", "D", "E", "F", and "G" adversely affected by street construction, repair or maintenance.

Reserves "A", "B", "C", "D", "E", "F", and "G", shall be owned and maintained by the homeowners association for the addition.

2. That a Homeowner's Association shall be formed and incorporated as a non-profit corporation under Kansas Statutes, at the Declarant's sole cost. Reserves "A", "B", "C", "D", "E", "F", and "G", as designated on the plat of Castlegate Addition, shall be deeded to the Homeowner's Association upon its incorporation or within 30 days thereafter.

3. That the declaration of covenants and other provisions of the Homeowner's Association being formed shall provide specific pertinent language requiring that the Homeowner's Association shall include the first or any other subsequent phase or phases for the maintenance of any and all common areas contiguous to Reserves "A", "B", "C", "D", "E", "F", and "G", to Castlegate Addition under the same scope of responsibility as the initial phase of development.

4. That the owners hereby grant an irrevocable easement to whichever appropriate governing body or authority has jurisdiction, to enter upon the Reserve, as defined, for the purposes of maintaining such Reserve. This easement is conditioned upon the following event or events happening:

A. That the Declarant or the Homeowners Association, as may be appropriate, has failed to maintain the reserve in a reasonable and prudent manner.
and,

B. That the appropriate governing body has given written notice to the Declarant or the Homeowners Association and neither entity has responded in initiating corrective action within thirty (30) days of such notice. If the governing body has taken action to maintain the reserve under this covenant, the Declarant or Homeowners Association shall pay promptly the costs expended. If the costs are not paid within thirty (30) days of the rendering of an account, the costs shall be

considered an assessment against all lots in Castlegate Addition, and shall be considered a lien thereon and be treated in the same manner as a special assessment.

This covenant shall be binding on the owner, their heirs, or successors or assigns and is a covenant running with the land and is binding on all successors in Lots in CASTLEGATE ADDITION, Wichita, Sedgwick County, Kansas.

The covenants, conditions, and restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent of the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

EXECUTED the day and year first written.

Green Vision Developer, L.L.C.

By: Randall E. Ketzner
Randall E. Ketzner, Member

STATE OF KANSAS)
SEDGWICK COUNTY) SS:

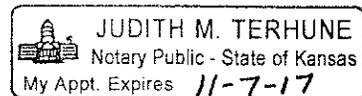
BE IT REMEMBERED, that on this 21st day of April, 2014, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Randall E. Ketzner as Member of Green Vision Developer, L.L.C., a Kansas limited liability company, personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same, for and on behalf and as the act and deed of said limited liability company.

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

Judith M. Terhune
Notary Public

(My Appointment Expires: 11-7-17)

Approved as to form:



Gary E. Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

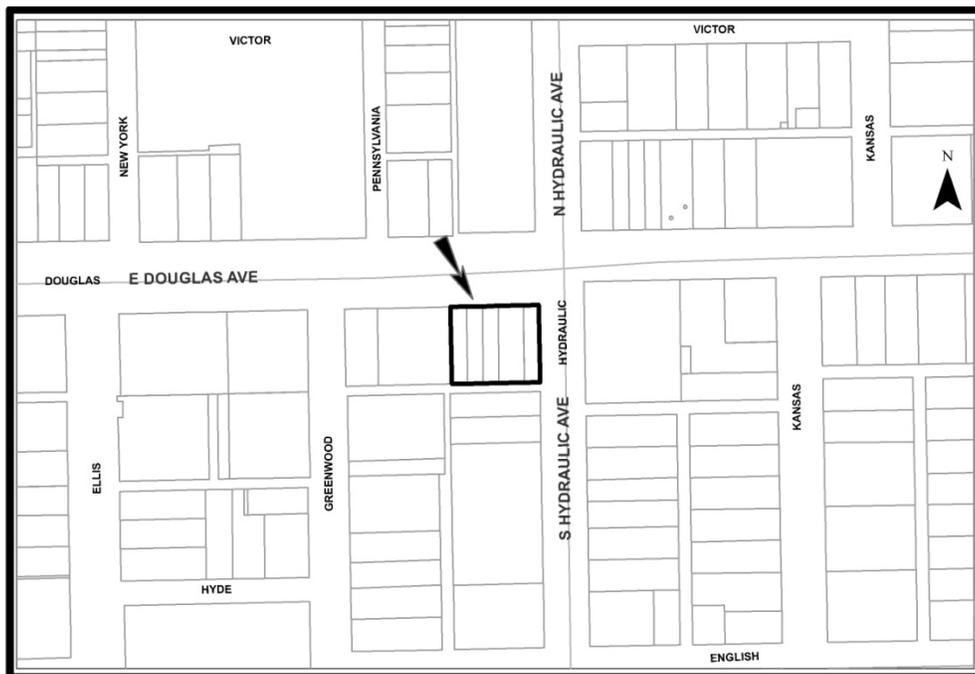
SUBJECT: SUB2014-00016 -- Plat of Devlin Auto Realty Addition located on the southwest corner of Douglas and Hydraulic (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (8-0-1)



Background: The site, consisting of one lot on .37 acres, is zoned CBD Central Business District.

Analysis: The site is currently being served by water and sewer services.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

Financial Considerations: There are no financial considerations associated with the plat.

Legal Considerations: There are no legal considerations associated with the plat.

Recommendations/Actions: It is recommended that the City Council approve the plat and authorize the necessary signatures.

Attachments: There are no attachments associated with the plat.

Background: The applicants propose to vacate the platted 29-foot (south end) – 25-foot (north end) wide sanitary sewer easement and the platted rear yard setback located within the subject easement, all located along the rear lot line of Lot 1, Ladene Addition. There is a sewer line and manhole located in the area where the subject easement intersects with a north – south platted 10-foot wide utility easement that runs parallel with Lot 1’s south portion of its west lot line. A 10-foot wide portion of the subject easement will be retained where it intersects with the north – south platted easement. The Ladene Addition was recorded with the Register of Deeds August 26, 1975.

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. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the 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 SANITARY SEWER EASEMENT)
AND A PLATTED SETBACK)
)
GENERALLY LOCATED SOUTH OF 33RD STREET) **VAC2014-00002**
NORTH, WEST OF AMIDON AVENUE, ON THE WEST)
SIDE OF CLARENCE CIRCLE)
)
)
MORE FULLY DESCRIBED BELOW)**

VACATION ORDER

NOW on this 13th day of May, 2014, comes on for hearing the petition for vacation filed by David A. & Heather M. Smith (owner), praying for the vacation of the described portion of a platted sanitary sewer easement and a platted setback, to-wit:

All but the south 10-feet of a platted 29-foot wide (south end) to 25-foot wide (north end) sanitary sewer easement and the platted setback located within (and being the same dimensions) the subject platted sanitary sewer easement, running along the rear lot line of Lot 1, Ladene Addition, 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, January 30, 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 sanitary sewer easement and the platted setback 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 sanitary sewer easement and the platted setback should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of May, 2014, ordered that the above-described portion of the platted sanitary sewer easement and the platted setback are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council
SUBJECT: VAC2014-00004 - Request to vacate a platted utility easement on property generally located south of 2nd Street, a block west of West Street on the east side of Florence Street (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 (MAPC) recommends approval of the vacation request (9-0).



Background: The applicant proposes to vacate the platted 10-foot wide utility easement running parallel (west-east) to the south lot lines of Lots 2 & 3, Curtis Grove Addition. The subject easement intersects with a platted 20-foot wide (south-north) utility easement that runs parallel to the common south-north lot line of the subject lots. There is a sewer line and manhole located in the platted 20-foot wide utility easement. The Curtis Grove Addition was recorded with the Register of Deeds September 17, 1973

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. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the 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 UTILITY EASEMENT)**

**GENERALLY LOCATED SOUTH OF 2ND STREET, A)
BLOCK WEST OF WEST STREET, ON THE EAST SIDE)
OF FLORENCE STREET)**

VAC2014-00004

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 13th day of May, 2014, comes on for hearing the petition for vacation filed by James L. Marcotte (owner), praying for the vacation of the described portion of a platted utility easement, to-wit:

A platted 10-foot wide utility easement running parallel to the south lot lines of Lots 2 & 3, Curtis Grove Addition, except the 10-foot portions of the subject easement located on the east and west sides of the platted 20-foot wide easement that runs parallel to the common south-north lot line of the Lots 2 & 3, Curtis Grove Addition, 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,

May 13, 2014
VAC2014-00004

Page 1 of 2

in The Wichita Eagle on March 20, 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 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 13th day of May, 2014, ordered that the above-described portion of the platted utility easement is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

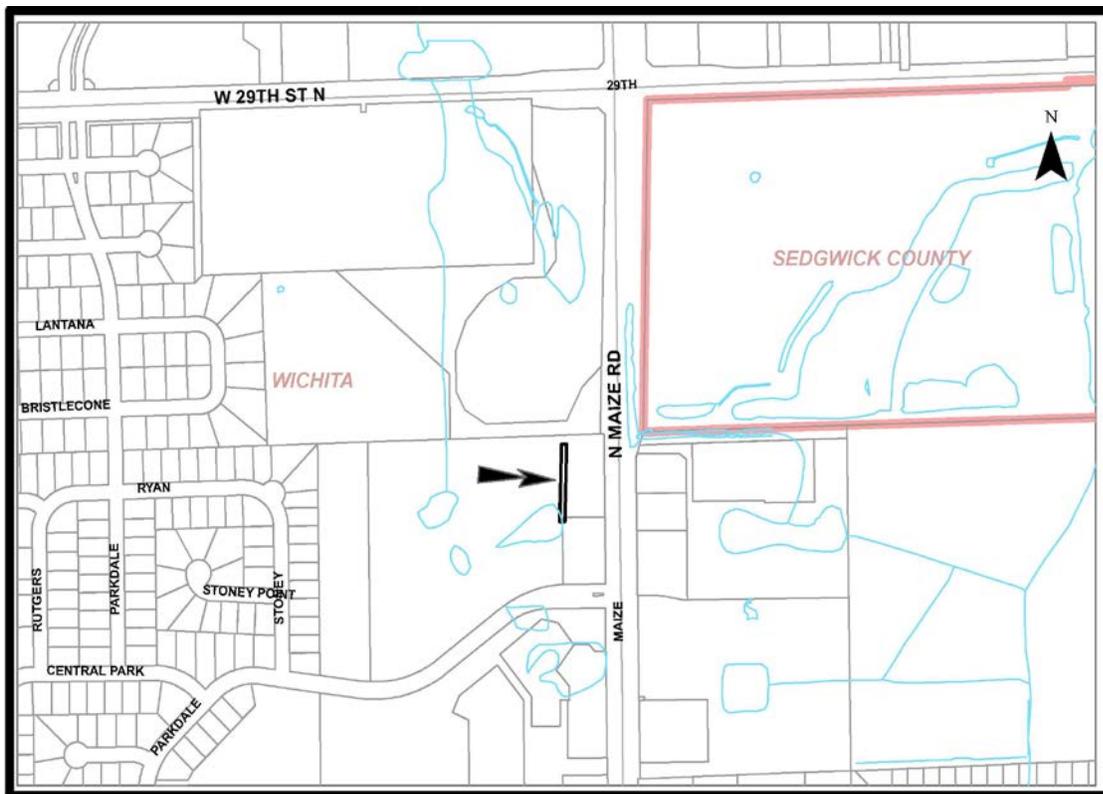
SUBJECT: VAC2014-00005 - Request to vacate a portion of a utility easement dedicated by separate instrument, on property generally located between 21st and 29th Streets North, north of Central Park Street, on the west side of Maize Road. (District V)

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 (MAPC) recommends approval of the vacation request (9-0).



Background: The applicant proposes to vacate the north approximately 290 feet of the 20-foot wide utility easement dedicated by separate instrument (FLM 2833 – PG 1975) located approximately 148 feet west of the east lot line of Lot 21, Block 9, Evergreen Addition. There is a sewer line and manholes located in the subject utility easement. Public Works has approved the applicant's plans, 2190 PPS, to relocate the sewer line and manholes. The applicant has also provided an easement to cover the relocated sewer line and manholes. The Evergreen Addition was recorded with the Register of Deeds August 31, 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 and a utility easement dedicated by separate instrument. A certified copy of the Vacation Order and the utility easement dedicated by separate instrument 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
- Utility easement dedicated 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 A UTILITY EASEMENT DEDICATED BY)
SEPARATE INSTRUMENT)**

**GENERALLY LOCATED MIDWAY BETWEEN)
21ST AND 29TH STREETS NORTH, NORTH OF CENTRAL)
PARK STREET, ON THE WEST SIDE OF MAIZE ROAD)**

VAC2014-00005

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 13th day of May, 2014, comes on for hearing the petition for vacation filed by Newmarket VI, LLC (owner), praying for the vacation of the described portion of a utility easement dedicated by separate instrument (FLM 2833 – PG 1975), to-wit:

A 20' Utility Easement located in Lot 21, Block 9, Evergreen, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows: COMMENCING at the N.E. corner of Lot 21, Block 9, Evergreen, an addition to Wichita, Sedgwick County, Kansas; Thence S1°24'27"W along the east line of Lot 21, Block 9, a distance of 40.00 feet; Thence N89°47'16"W a distance of 148.54 feet to the POINT OF BEGINNING; Thence S1°24'27"W a distance of 295.09 feet; Thence N87°35'33"W a distance of 20.00 feet; Thence N1°24'27"E a distance of 294.68 feet; Thence S89°47'16"E a distance of 20.00 feet to the POINT OF BEGINNING. (Said 20' Utility Easement recorded at the Sedgwick County Register of Deeds Office at Film 2833, Page 1975)

May 13, 2014
VAC2014-00005

Page 1 of 2

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 March 20, 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 utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
3. A utility easement dedicated by separate instrument will 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 utility easement dedicated by separate instrument should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of May, 2014, ordered that the above-described portion of the utility easement dedicated by separate instrument is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

May 13, 2014
VAC2014-00005

Page 2 of 2

COPY

UTILITY EASEMENT

THIS EASEMENT made this 8th day of April, 2014, by and between Newmarket IV, LLC, of the first part and the City of Wichita of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, operating, maintaining, and repairing public utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A 15' Utility Easement described as follows:

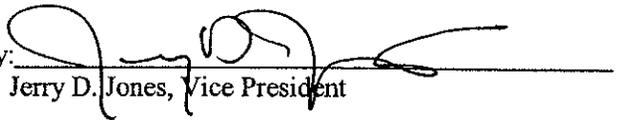
COMMENCING at the Northeast corner of Lot 21, Block 9, Evergreen, an addition to Wichita, Sedgwick County, Kansas; Thence Bearing S01°24'27"W, along the East line of said Lot 21, a distance of 40.01 feet; Thence Bearing N89°47'16"W, parallel with the North line of said Lot 21, a distance of 170.09 feet to the **POINT OF BEGINNING**; Thence continuing Bearing N89°47'16"W, a distance of 15.00 feet; Thence Bearing S01°24'27"W, a distance of 237.14 feet; Thence Bearing S88°35'33"E, a distance of 16.55 feet to a point on the West line of a 20' Utility Easement recorded at Film 2833, Page 1975 at the Sedgwick County Register of Deeds Office; Thence Bearing N01°24'27"E, along said West line, a distance of 17.44 feet; Thence Bearing N89°47'16"W, a distance of 1.55 feet; Thence Bearing N01°24'27"E, a distance of 220.05 feet to the **POINT OF BEGINNING**.

(Said 15' Utility Easement containing 0.082 acres, more or less)

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such public utilities.

IN WITNESS WHEREOF: The said first party have signed these presents the day and year first written.

NEWMARKET IV, LLC

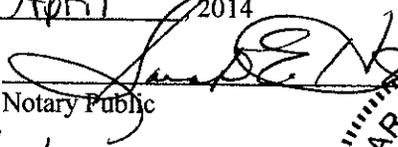
By: 
Jerry D. Jones, Vice President

VAC2014-00005

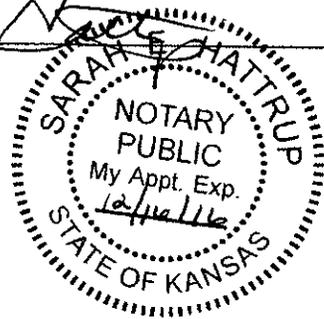
STATE OF KANSAS)
)SS
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid Jerry D. Jones, Vice President of Newmarket IV, LLC, to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

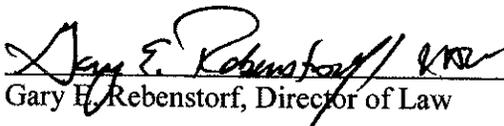
Dated this 8th day of April 2014


Notary Public

My Commission Expires 12/16/16



APPROVED AS TO FORM


Gary H. Rebenstorf, Director of Law

VAC2014-00005

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

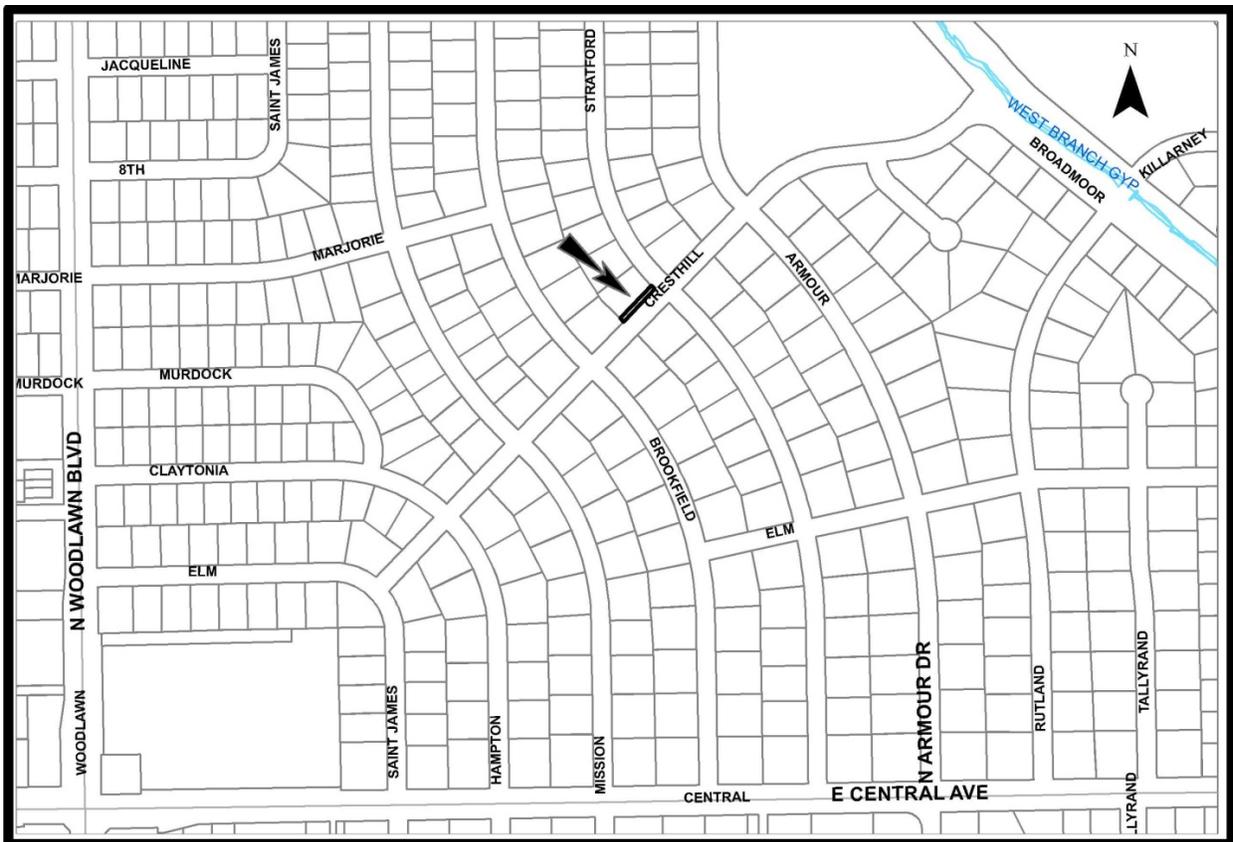
SUBJECT: VAC2014-00006 - Request to vacate a portion of a platted street side yard setback on property generally located east of Woodlawn Boulevard, south of 9th Street, on the northwest corner of Stratford and Cresthill Roads (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Staff recommends approval of the vacation request.

MAPC Recommendation: The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request (9-0).



Background: The applicants propose the vacation of the platted 15-foot street side yard setback located parallel to the south property line of Lot 16, Block R, First Addition to Woodlawn Village Addition and the Cresthill Road right-of-way. The subject corner lot is zoned SF-5 Single- Family Residential. The Unified Zoning Code's (UZC) minimum street yard setback for the SF-5 zoning district is 15 feet, i.e., the same as the subject site's platted 15-foot street side yard setback. If the setback was not platted the applicants could have applied for an Administrative Adjustment to reduce the street side yard setback by 20%, resulting in a 3 foot reduction. To reduce the subject setback by more than 20% requires a variance, which is a separate public hearing process. The applicant filed for a variance, BZA2014-00018, to reduce the street side yard setback to 5 feet. The Wichita-Sedgwick County Board of Zoning Appeals (BZA) approved BZA2014-00018 at their April 10, 2014 meeting. There are no platted easements or utilities located within the setback. The First Addition to Woodlawn Village Addition was recorded with the Register of Deeds April 17, 1954.

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. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order and authorize the necessary signatures.

Attachments:

- Vacation Order

2. No private rights will be injured or endangered by the vacation of the above-described portion of the platted street side yard setback and the public will suffer no loss or inconvenience thereby.

3. The street side yard setback shall be 5 feet as established by BZA2014-00018, a variance approved by the Wichita-Sedgwick County Board of Zoning Appeals at their April 10, 2014, meeting

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 of the platted street side yard setback should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of May, 2014, ordered that the platted street side yard setback is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

City of Wichita
City Council Meeting
May 13, 2014

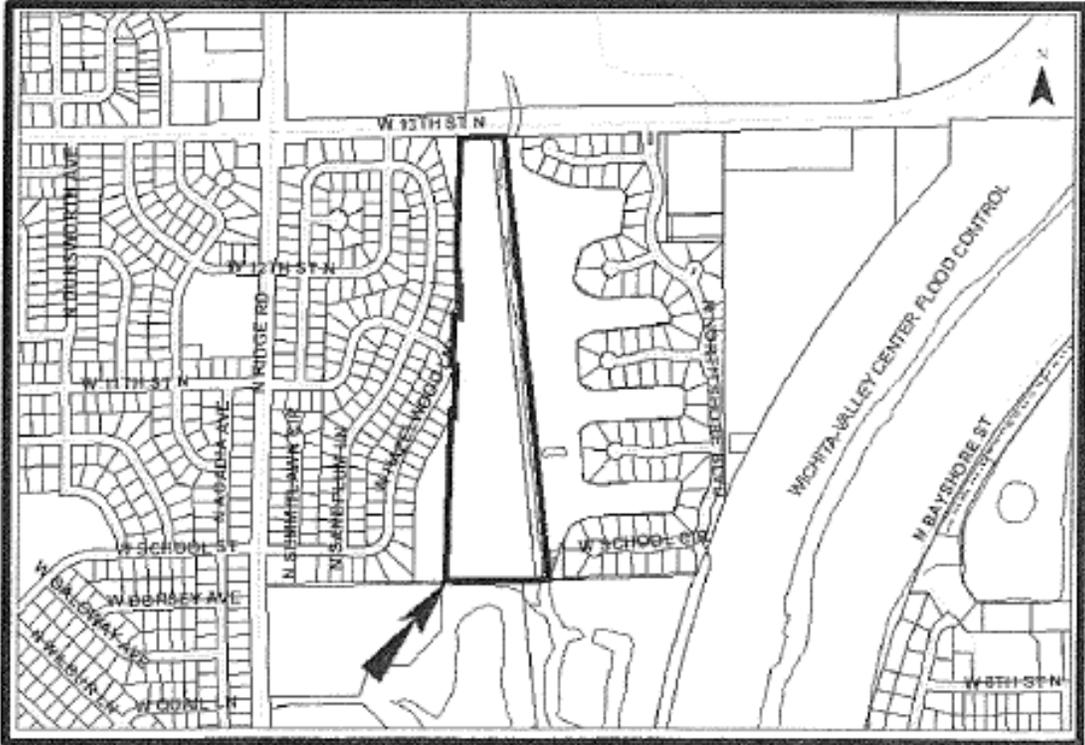
TO: Mayor and City Council

SUBJECT: CUP2007-00044 – Extension of time to complete the platting requirement for DP-307, creation of a new Community Unit Plan, generally located southeast of the intersection of West 13th Street North and Ridge Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPD Staff Recommendations: Approve the extension of the platting deadline to July 22, 2015.



Background: On August 26, 2008, the City Council approved the creation of DP-307, the Clear Lake Residential Community Unit Plan (CUP), subject to conditions and re-platting the property within one year. The applicant now requests a retroactive platting extension to make up the time from August 26, 2009, and asks for a one-year platting extension until July 22, 2015. The applicant's letter is attached.

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

Financial Considerations: There are no financial considerations associated with the CUP request.

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

Recommendation/Actions: Approve an extension of the platting deadline to July 22, 2015.



POE & ASSOCIATES, INC.

CONSULTING ENGINEERS

5940 E. Central, Suite 200
Wichita, Kansas 67208

(316) 685-4114
FAX: (316) 685-4444

April 11, 2014

Mr. Dale Miller
Senior Planner, Current Plans
Metropolitan Area Planning Department
455 N. Main; 10th Floor
Wichita, Kansas 67202

**RE: CUP2007-00044, DP-307, Clear Lake Community Unit Plan
PLATTING EXTENSION REQUEST**

Dear Dale:

On behalf of the property owner, Mr. Mike Lies, we respectfully request a platting extension until July 22, 2015. The previous zoning case was forwarded by the contract buyer who never completed the zoning, which was part of the buyer's due diligence. The owner requests an opportunity to perfect the zoning and thus requests this extension to afford him the opportunity to do so.

Please let me know if you have any questions.

Respectfully,

Tim Austin, PE

Cc: Mr. Mike Lies

City of Wichita
City Council Meeting
May 13, 2014

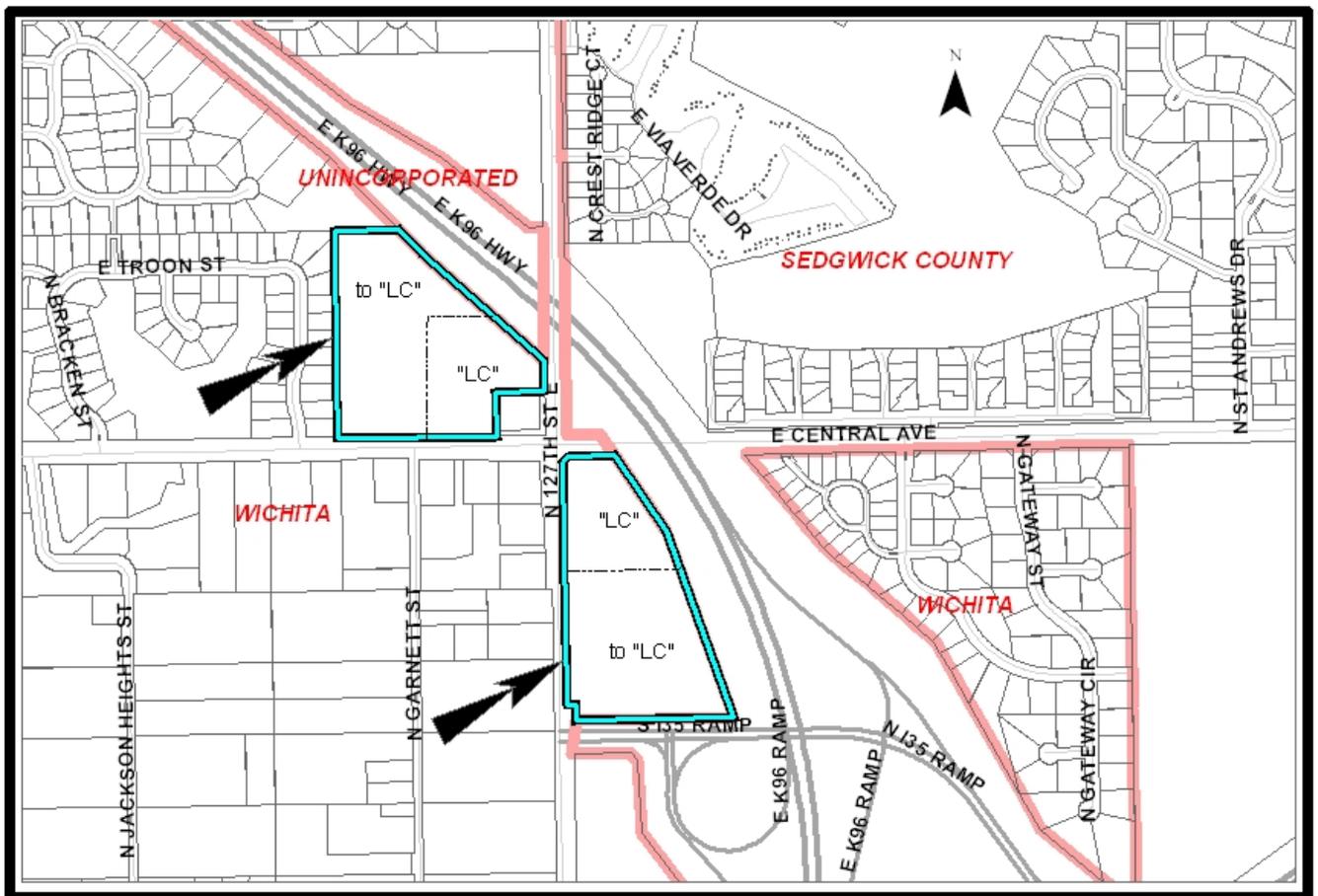
TO: Mayor and City Council

SUBJECT: CUP2008-00015 AND ZON2008-00021 – Extension of time to complete the platting requirement for the Parker Addition Community Unit Plan and zone change from SF-5 Single-family Residential (SF-5) to LC Limited Commercial (LC) generally located on the northwest and southeast corners of Central Avenue and 127th Street East. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPD Staff Recommendations: Approve the extension of the platting deadline to July 22, 2016.



Background: On July 22, 2008, the City Council approved the creation of DP-313 the Parker Addition Community Unit Plan (CUP) and a zone change from SF-5 Single-family Residential (SF-5) to LC Limited Commercial (LC), subject to the condition of platting the property within one year. The applicant requested and received platting extensions to July 22, 2014. The applicant now requests an additional two-year platting extension until July 22, 2016. The applicant's letter is attached.

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

Financial Considerations: There are no financial considerations associated with the zoning and CUP requests.

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

Recommendation/Actions: Approve an extension of the platting deadline to July 22, 2016.



POE & ASSOCIATES, INC.

CONSULTING ENGINEERS

5940 E. Central, Suite 200
Wichita, Kansas 67208

(316) 685-4114
FAX: (316) 685-4444

April 24, 2014

VIA EMAIL

JMcNeely@wichita.gov

Mr. Jess McNeely
Metropolitan Area Planning Department
455 N. Main; 10th Floor
Wichita, Kansas 67202

**RE: Parker Addition Community Unit Plan, DP-313
PLATTING EXTENSION REQUEST**

Dear Jess:

We respectfully request a two-year platting extension until July 22, 2016.

Please let me know if you have any questions.

Respectfully,

Tim Austin, PE

Cc: Mr. Todd Parker
Mr. Craig Ablah
Mr. Jeff Dahlgren

Background: On August 26, 2008, the City Council approved the zone change from SF-5 Single-family Residential (SF-5) to MF-29 Multi-family residential (MF-29), generally located north of West Central Avenue and ½ mile east of North Ridge Road, subject to platting the property within one year. The applicant now requests a retroactive platting extension to make up the time from August 26, 2009, and asks for a one-year platting extension until July 22, 2015. The applicant's letter is attached.

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

Financial Considerations: There are no financial considerations associated with the zoning request.

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

Recommendation/Actions: Approve an extension of the platting deadline to July 22, 2015.



POE & ASSOCIATES, INC.

CONSULTING ENGINEERS

5940 E. Central, Suite 200
Wichita, Kansas 67208

(316) 685-4114
FAX: (316) 685-4444

April 11, 2014

Mr. Dale Miller
Senior Planner, Current Plans
Metropolitan Area Planning Department
455 N. Main; 10th Floor
Wichita, Kansas 67202

**RE: ZON2008-00033
PLATTING EXTENSION REQUEST**

Dear Dale:

On behalf of the property owner, Mr. Dick Hoskinson, we respectfully request a platting extension until July 22, 2015. The original zoning case was forwarded by the contract buyer who never completed the zoning, which was part of the buyer's due diligence. The owner requests an opportunity to perfect the zoning and thus requests this extension to afford him the opportunity to do so.

Please let me know if you have any questions.

Respectfully,

Tim Austin, PE

Cc: Mr. Dick Hoskinson
Mr. Don Arnold

City of Wichita
City Council Meeting
May 13, 2014

TO: Mayor and City Council

SUBJECT: ZON2014-00002 – Zone change request from SF-5 Single-family Residential to LC Limited Commercial (LC), generally located south of West Taft Street and east of South Illinois Avenue (526 S. Illinois Ave.). (District IV).

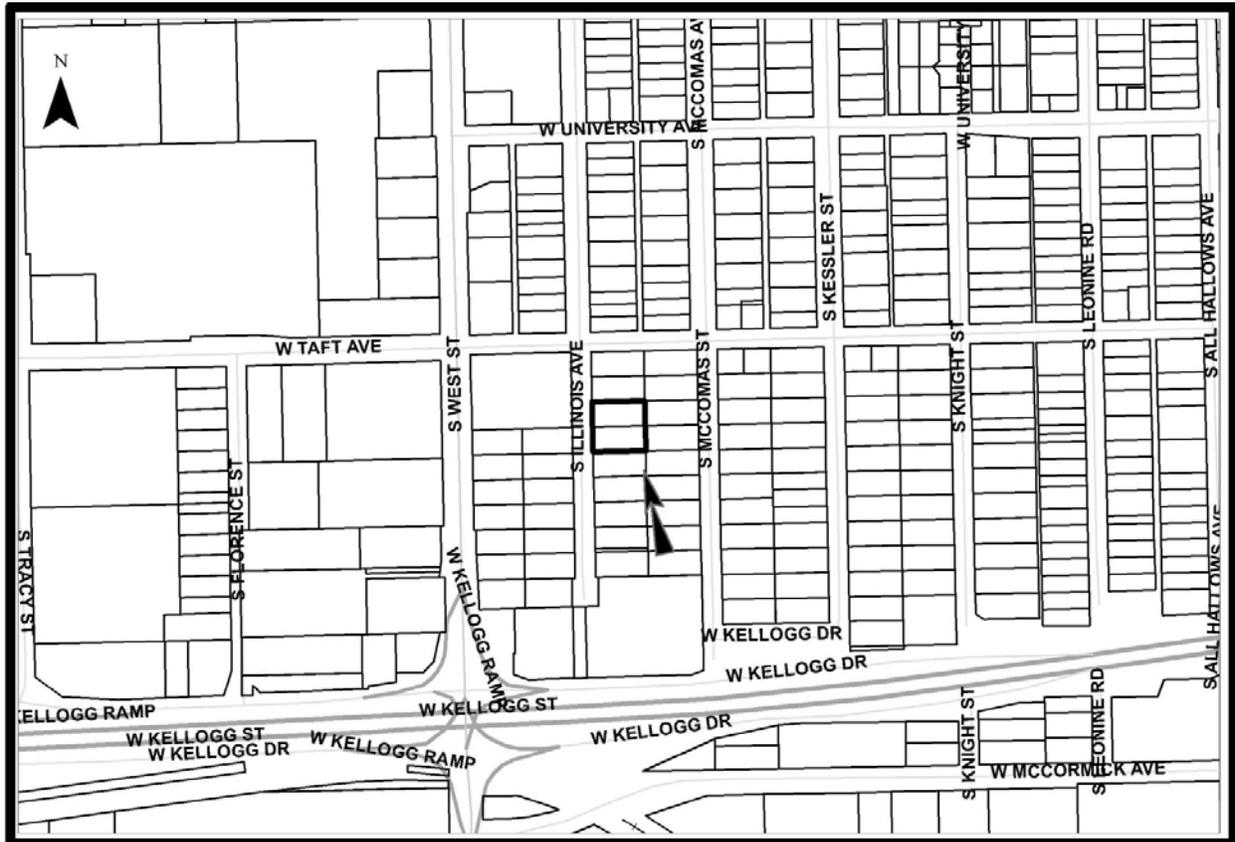
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (9-0).

DAB Recommendation: District Advisory Board IV recommended approval of the request (7-0).

MAPD Staff Recommendation: Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant requests LC Limited Commercial (LC) zoning on two platted lots, one of which is developed with a single-family residence. The .5-acre site is currently zoned SF-5 Single-Family Residential (SF-5). Under LC zoning, the Unified Zoning Code (UZC) would permit the following land uses on this site by right (which are not permitted under the current SF-5 zoning): duplex, multi-family, assisted living, group residence, correctional placement residence, hospital, nursing facility, university or college, animal care, automated teller machine, bank or financial institution, broadcast/recording studio, construction sales and services, convenience store, farmers market, funeral home, hotel or motel, medical service, nurseries or garden centers, general office, commercial parking area, pawnshop, personal care service, personal improvement service, post office substation, limited printing and copying, indoor entertainment and recreation, restaurant, general retail, secondhand store, service station, limited vehicle repair, vocational school, agricultural research, agricultural sales and service. Under LC zoning, the UZC would require compatibility setbacks from SF-5 zoning, parking, screening and landscaping; these requirements will limit development on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning to the south and east, it limits building height to 35 feet within 50 feet of SF-5 zoning, it limits light pole height to 15 feet within 200 feet of residential zoning, and it requires three parking spaces per 1,000 square feet for most commercial uses.

This block of South Illinois Street has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC General Commercial (GC) and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 Two-family Residential (TF-3) zoned single-family residences and duplexes.

Analysis: District Advisory Board (DAB) V heard the rezone request on April 7, 2014, and recommended approval (7-0). No citizens spoke at the DAB hearing on this request.

At the Metropolitan Area Planning Commission (MAPC) meeting held on April 10, 2014, the MAPC voted (9-0) to recommend approval of the request. No citizen's spoke at the MAPC hearing and no protests were filed on this 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 adopt the findings of the MAPC and approve the zone change, place the ordinance on first reading and authorize the Mayor to sign the ordinance (simple majority vote required).

Attachments:

- Ordinance
- DAB memorandum
- MAPC minutes

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. ZON2014-00002

Zone change from SF-5 Single-family Residential (SF-5) to LC Limited Commercial (LC) on approximately .5 acres described as:

Lots 3 and 4, Block 2, Eureka Gardens Addition to Wichita, KS; generally located east of Illinois and south of Taft (526 S. Illinois).

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

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

Carl Brewer - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form: _____
Gary E. Rebenstorf, City Attorney



**INTEROFFICE
MEMORANDUM**

TO: MAPC
FROM: Case Bell, Community Liaison
SUBJECT: ZON2014-00002: Request for LC Limited Commercial (LC) zoning on the property generally located south of Taft and east of Illinois (526 S. Illinois Ave.)

DATE: April 8, 2014

On April 7, 2014, the District IV Advisory Board considered a request for LC Limited Commercial (LC) zoning on two platted lots, one of which is developed with a single-family residence. The .5-acre site is currently zoned SF-5 Single-Family Residential (SF-5). This block of Illinois has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC General Commercial (GC) and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 Two-family Residential (TF-3) zoned single-family residences and duplexes. Staff anticipates that this entire block will eventually rezone to LC.

Jess McNeely, MAPD, also reported that only one lot south of this property is zoned single family. The street beyond this lot is over 50% commercial.

Councilman Blubaugh asked what the owners of the property were planning to put in at this location. McNeely responded that it was speculative right now, they haven't decided. One DAB member asked why they couldn't rezone one block at a time instead of by plots. McNeely responded that the process has to be initiated by the property owner.

The DAB IV members voted 7-0 to recommend approval of the request.

**EXCERPT MINUTES OF THE APRIL 10, 2014 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION HEARING**

Case No.: ZON2014-00002 - Drew Loyd (owner) request a City zone change request from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lots 3 and 4, Block 2, Eureka Gardens Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests LC Limited Commercial (LC) zoning on two platted lots, one of which is developed with a single-family residence. The .5-acre site is currently zoned SF-5 Single-Family Residential (SF-5). Under LC zoning, the Unified Zoning Code (UZC) would permit the following land uses on this site by right (which are not permitted under the current SF-5 zoning): duplex, multi-family, assisted living, group residence, correctional placement residence, hospital, nursing facility, university or college, animal care, automated teller machine, bank or financial institution, broadcast/recording studio, construction sales and services, convenience store, farmers market, funeral home, hotel or motel, medical service, nurseries or garden centers, general office, commercial parking area, pawnshop, personal care service, personal improvement service, post office substation, limited printing and copying, indoor entertainment and recreation, restaurant, general retail, secondhand store, service station, limited vehicle repair, vocational school, agricultural research, agricultural sales and service. Under LC zoning, the UZC would require compatibility setbacks from SF-5 zoning, parking, screening and landscaping; these requirements will limit development on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning to the south and east, it limits building height to 35 feet within 50 feet of SF-5 zoning, it limits light pole height to 15 feet within 200 feet of residential zoning, and it requires three parking spaces per 1,000 square feet for most commercial uses.

This block of South Illinois Street has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC General Commercial (GC) and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 Two-family Residential (TF-3) zoned single-family residences and duplexes.

CASE HISTORY: The site was platted as two lots within the Eureka Gardens Addition in 1941.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Office/warehouse, single-family residence
SOUTH:	SF-5, LC	Single-family residence, vehicle repair, hotel, restaurant
EAST:	SF-5, TF-3	Single and two-family residences
WEST:	GC	Banking, retail, vehicle repair, restaurant

PUBLIC SERVICES: South Illinois Street is a paved local street, West Street located one block to the west is an arterial, and West Taft Avenue to the north is classified as a collector. All other public utilities are available.

CONFORMANCE TO PLANS/POLICIES: The 2030 *Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies all property immediately west of the site, and property south of the site fronting Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that

commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Staff anticipates that this entire block will eventually rezone to LC. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- 1) **The zoning, uses and character of the neighborhood:** This block of South Illinois Street has transitioned from residential to primarily commercial zoning over time. The entire west side of this block is zoned GC and developed with banking, retail, vehicle repair and restaurant uses that front West Street. Other than the application area, only one other residence exists in SF-5 zoning on the east side of this block, three residences exist in LC zoning on the east side of the block. Property to the north of the site is zoned LC and developed with an office/warehouse. Property immediately south of the site is zoned SF-5 and developed with a single-family residence; further south is an LC zoned vehicle repair business and hotel/restaurant uses fronting the Kellogg expressway. East of the site are SF-5 and TF-3 zoned single-family residences and duplexes.
- 2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences. The commercial transition in this area may not make it desirable for future single-family residential development.
- 3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the south and east could be impacted with increased noise, light, trash, traffic and activity from development under LC zoning. These impacts would not be new to the area as significant commercial zoning and development already exists in the immediate area. The compatibility standards of the UZC should mitigate these impacts on nearby residences.
- 4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies all property immediately west of the site, and property south of the site fronting Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

- 5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing infrastructure.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **NEUGENT** seconded the motion, and it carried (9-0).

Wichita, Kansas
May 12, 2014
10:00 a.m., Monday
Conference Room, 12th Floor

MINUTES - BOARD OF BIDS AND CONTRACTS*

The Board of Bids and Contracts met with Marty Strayer, Administrative Assistant, Public Works Engineering in the Chair; Fanny Chan, Senior Accountant, Finance, representing the Director of Finance, Elizabeth Goltry-Wadle, Senior Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, Eoghan Miller, Management Fellow, representing the City Manager's Office, and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated May 5, 2014, were read and on motion approved.

Bids were opened May 9, 2014, pursuant to advertisements published on:

**WICHIA AIRPORT AUTHORITY/ENGINEERING DIVISION: South
Maintenance Yard Paving and Drainage.**

Vogts- Parga Consturction, LLC - \$2,146,871.40 Base Bid
\$75,250.00 Alternate 3

The Purchasing Division recommended that the contracts be awarded as outlined above, same being the lowest and best bid.

On motion the Board of Bids recommended that the contracts be awarded above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

Marty Strayer, Administrative Assistant
Department of Public Works

Janis Edwards, CMC
Deputy City Clerk

FORMAL BID REPORT

TO: Robert Layton, City Manager
DATE: May 12, 2014

WICHITA AIRPORT AUTHORITY BIDS – VICTOR WHITE, DIRECTOR OF AIRPORTS
May 9, 2014

South Maintenance Yard Paving and Drainage Improvements – Wichita Airport Authority/Engineering Division		
Vogts-Parga Construction, LLC	Base Bid	\$2,146,871.40
	Alternate 3 (Add)	\$75,250.00

ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.


Melinda A. Walker
Purchasing Manager



Bid Results

Registration Solicitations Document Inquiry Login Help

This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

Vendor Group Line

Solicitation: FB440073 South Maintenance Yard Paving & Drainage

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

Award Method: Group

Department: Airport Engineering

Return to the Bid List

Responses: 2

Vendors	Complete	Bid Total	City Comments
<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Partial	\$2,319,328.40	Award 5-13-14 Base Bid with Alternate No. 3 Wichita Airport Authority/Engineering Division
<u>CORNEJO & SONS LLC</u>	Partial	\$2,329,346.50	

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Engineer's Estimate Base Bid \$2,369,487.00





Bid Results

[Registration](#) [Solicitations](#) [Document Inquiry](#) [Login](#) [Help](#)

This page summarizes bids by the totals for each group listed on the solicitation.

Vendor Group Line

Solicitation: FB440073 **South Maintenance Yard Paving & Drainage**

Close Date/Time: 5/9/2014 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Group

Department: Airport Engineering

Responses: 2

Go to: 1

Group	Vendors	Status	Group Total Net Bid	
Group 1				
	Vendors	Complete	Group Total Net Bid	
	<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Partial	\$2,146,871.40	
	<u>CORNEJO & SONS LLC</u>	Partial	\$2,166,966.50	Top of the Page
Group 2				
	Vendors	Complete	Group Total Net Bid	
Group 2: Alternate 1				
	Vendors	Complete	Group Total Net Bid	
	<u>CORNEJO & SONS LLC</u>	Complete	\$54,812.00	
	<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Complete	\$67,773.50	Top of the Page
Group 3				
	Vendors	Complete	Group Total Net Bid	
Group 3: Alternate 2				
	Vendors	Complete	Group Total Net Bid	
	<u>CORNEJO & SONS LLC</u>	Complete	\$12,118.00	
	<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Complete	\$13,369.50	Top of the Page
Group 4				
	Vendors	Complete	Group Total Net Bid	
Group 4: Alternate 3				
	Vendors	Complete	Group Total Net Bid	
	<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Complete	\$75,250.00	
	<u>CORNEJO & SONS LLC</u>	Complete	\$80,000.00	Top of the Page
Group 5				
	Vendors	Complete	Group Total Net Bid	
Group 5: Alternate 4				
	Vendors	Complete	Group Total Net Bid	
	<u>CORNEJO & SONS LLC</u>	Complete	\$15,450.00	
	<u>VOGTS-PARGA CONSTRUCTION, LLC</u>	Complete	\$16,064.00	Top of the Page